

DCED STAFF TRAINING NOTEBOOK
DCED MODEL ORDINANCES AND INFORMATION REGARDING THE
ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS

August, 1988

TABLE OF CONTENTS

- I. Purpose of Notebook
- II. Major considerations Involved with Acquisition, Management, and Disposal of Municipal Lands
- III. Model, Code Ordinance for the Acquisition, Management, and Disposal of Municipal Lands
- IV. Notes Regarding Provisions of the Model Code Ordinance for the Acquisition, Management, and Disposal of Municipal Lands
- V. Sample Resolution and Non-Code Ordinance for Acquisition of Municipal Lands
 - A. Sample Resolution Accepting Lands
 - B. Sample Non-Code Ordinance for the Acceptance of ANCSA 14(c)(3) Lands
- VI. Sample Documents and Procedures for Temporary and Casual Uses of Municipal Lands
 - A. Sample Temporary Use Permit for City Lands
 - B. Sample Code Ordinance Provisions (Fairbanks North Star Borough) for Casual Use of City Lands
- VII. Sample Non-Code Ordinances for Specific Land Disposals
 - Example #1: Settling claims of equitable interest on municipal lands
 - Example #2: Making municipal lands available for residential development.
 - Example #3: Making municipal lands available to a regional housing authority for public housing purposes.
 - Example #4: Leasing a city-owned lot to a public agency for the construction of a public building.
 - Example #5: Authorizing an easement agreement across municipal lands for location of utility lines.

VIII. Sample Land Documents

- A. Sample quitclaim deed
- B. Sample modified quitclaim deed for Example #1
- C. Sample modified quitclaim deed for Example #2
- D. Sample modified quitclaim deed for Example #3
- E. Sample lease contract (could be used with Example #4)
- F. Sample easement document for Example #5

IX. Sample ordinances and Follow-up Procedures for Competitive Land Disposals

- A. Disposal by Lottery (Bristol Bay Borough)
- B. Disposal by Sealed Bid (Fairbanks North Star Borough)
- C. Disposal by Outcry Auction (City of Petersburg)

X. Additional References

I. PURPOSE OF NOTEBOOK

The purpose of this notebook is to provide information that will be useful in the drafting of ordinances for the acquisition, management, and disposal of municipal lands. The notebook is designed to be used by **DCBD** staff in their technical assistance efforts to municipalities. However, the information in the notebook could also be used directly by municipalities. In either case, it is strongly recommended that any draft ordinances that are being considered by a municipality be reviewed by the municipal attorney. The notebook format was chosen in order to easily allow for revisions and additions over time.

This notebook is supplemented by a separate notebook containing State Attorney General opinions, appropriate information from two community legal assistance grants, and other legal information regarding the acquisition, management, and disposal of municipal lands.

II. MAJOR CONSIDERATION'S INVOLVED WITH ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS

A. Constitutional Requirements

The following Constitutional provisions must be met in disposals of municipal lands.

- 1) Equal treatment of people who are similarly situated (Federal and Alaska Constitutions)
- 2) Public property cannot be transferred except for a public purpose (Alaska Constitution)

B. Statutory Requirements

Title 29 contains the following provisions that apply to municipal land acquisition and disposal.

- 1) (AS 29.35.010): Municipalities have the power to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries.
- 2) (AS 29.35.090): The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality.
- 3) (AS 29.25.010)(4): The governing body of a municipality shall use an ordinance to make appropriations. (Disposal of municipal land is considered an appropriation).

C. Codified and Non-Codified Ordinances

In order for a municipality to comply with Title 29, the municipality must first pass a codified ordinance that provides the authority and general procedures the municipality must follow in acquiring and disposing of municipal lands. Code ordinances are included in the municipality's code of ordinances. A model code ordinance is included in Section III of this notebook.

Once the codified ordinance is passed, actual acquisition and disposal of lands (and management of lands if these provisions are included in the ordinance) are handled with follow-up actions (e.g., non-code ordinances, resolutions, etc.).

For specific land disposals and for certain types of land acquisitions, we recommend that a non-code ordinance(s) be passed. Most acquisitions can be effectively handled by resolution.

A non-code ordinance provides detailed information about specific land actions. For example, a non-code land disposal ordinance specifies the conditions, schedule, preference provisions, financial terms, price, location of the land, and other details about the procedures for each land disposal. Non-code ordinances are not placed with the municipal code of ordinances.

D. Public Purpose Considerations and Special Provisions in Municipal Land Disposals

Public Purpose: A municipality needs to keep the following public purpose considerations in mind when disposing of municipal lands:

- municipal lands to be disposed of are no longer necessary for public purposes.
- if municipal lands are to be disposed of for less than fair market value or if preference provisions are involved in the disposal, a strong public purpose must be met to justify such disposals.

Special Provisions in Municipal Land Disposals: Following are some "special" provisions which are usually discussed and proposed for municipal land disposals. These provisions are usually proposed for objectives such as: the desire to make land available for residents at prices they can afford; the desire to minimize speculative buying of land in the community by outsiders; and the desire to get land to people who have a valid claim of equitable interest in the land. If lands no longer for municipal purposes were offered for disposal on a completely competitive basis, the three above-listed objectives may not be satisfactorily met. Therefore, city officials are generally in favor of designing their land disposal ordinances and procedures to best meet the special needs of their community.

Following are brief discussions of three special types of provisions that address the objectives listed above. Additional discussion of these types of provisions is found in the cited documents and within Section IV of this notebook. Cited documents are contained in the "Supplement to Training Notebook for the Acquisition, Management, and Disposal of Municipal Lands".

- 1) Less than Fair Market Value: This is usually desired by municipalities when there is a fairly low income level in the community and a disposal of lands at fair market value would be too expensive for most residents to afford.

A State Attorney General's opinion (refer to Op. Atty. Gen of November 21, 1983) states that conveyances for less than fair market value are legal as long as there is some consideration, and consideration is not so insignificant that the conveyance amounts to a gift. An exception to this statement would be the donation of municipal lands to another government or charitable institution and used for public purposes (refer to letter from Timothy Troll, Attorney to John Gliva dated March 6, 1987, page 3).

A conveyance of municipal land for less than fair market value should not be made unless there are findings that some larger and more important public purpose justifies the conveyance (refer to letter from Timothy Troll, Attorney, to John Gliva dated March, 1987, page 3).

- 2) Preference Provisions: The usual goal of preference provisions is to get land to local residents and minimize speculation by outsiders. It is extremely important that Constitutional provisions (equal treatment and public purpose) are carefully considered in preferential types of disposals.
 - a) Residency Requirements: One way that preference provisions are usually proposed is by the use of residency requirements. In determining what is meant by "resident", there are two considerations: 1) physical presence in a locale for a described duration ("durational qualifications"), and 2) a more subjective "domicile" test. (For additional reading on this topic, refer to: "Municipal Land Acquisition. and Disposal in Alaska", Timothy Troll, 1987, pp. 30-33; and memo to Jim Reeves from Doug Parker, January 24, 1984.)
 - 1) Durational qualifications: this is when a person must live in the community for a specified period of time before they are qualified to apply for land that is being disposed of. In this type of preference provision, the burden is on the governmental unit to demonstrate that the durational classification is related to a legitimate governmental objective. In other words, just benefiting residents is not enough.

The municipality must show a strong relationship between the local problem and how the eligibility requirement will be effective in addressing the problem. For example, a city desires to make land available to residents to relieve overcrowding in existing homes.

In determining a durational requirement, keep in mind that a 30-day requirement will probably not be questioned. This period is also the minimum residency requirement in order to vote in Alaska. As another example, there is a six month residency requirement in order to receive an Alaska permanent fund dividend.

- 2) "Domicile test": This test involves determining that an individual's intent is to not merely live in a place but to make a home there. For example, applicants for Alaska permanent fund dividends must sign a statement of intent to remain a resident of Alaska. If, during the filing period, the applicant took steps to set up residency in another state (e.g., accepts a permanent job in another state), that person would not be eligible for a permanent fund dividend even though the applicant met the physical presence requirements of the program by living in Alaska for a six month period.

A city council could determine "subjective intent to remain" from such objective criteria as it may deem appropriate. The council could set the criteria and obtain the information from an application for lot purchases (refer to letter from Timothy Troll to John Gliva dated March 6, 1987, page 10).

Post-Conveyance Restrictions: A municipality may also achieve the same objectives of a residency requirement by having "post-conveyance restrictions" incorporated into the deed or lease conveying lands through the disposal program. These restrictions do not preclude anyone from participating in the disposal but when a deed is drawn up for the land, there are certain restrictions or performance standards that must be met by the recipient of the land. For example, the deed could require construction of a habitable dwelling within a prescribed period (refer to Troll report, page 31).

The municipality could also minimize speculation by limiting the number of lots a person could receive through the municipal land disposal program (e.g., one lot per lifetime). This could be done by incorporating the language in the non-code ordinance itself and posted with the other information regarding a specific disposal.

- c) Valid Claims of Equitable Interest: One special type of preference provision involves the disposal of lands by a municipality to individuals who have valid claims of equitable interest in the land. Equitable interest is defined as a claim in property which should be recognized in the interest of fairness or equity.

An example of equitable interest would be if someone believed they had received authority from the previous landowner, (e.g., the federal townsite trustee), to move onto a piece of vacant property to build a house. Without a transfer of title taking place this person went ahead and built a house on the lot and began to live there. Subsequently, if the federal townsite lands were conveyed to the city, including the lot in question, the city would then, obtain title to this lot and the improvements on it. In this case, the person living on the lot probably has a valid claim of equitable interest.

If the city is to dispose of lands having valid claims of equitable interest, any ordinance conveying the property should clearly state what the council believes the equitable interest to be.

A trespasser would not have a valid claim of equitable interest, therefore this provision of the land disposal ordinance should not be used to convey land to trespassers. Furthermore, a trespasser cannot make a claim of adverse possession in the land since adverse possession does not apply to municipal property.

III. MODEL CODE ORDINANCE FOR THE ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS

This section contains a model code ordinance for the acquisition, management, and disposal of land. This code ordinance (developed by the Division of Community and Business Development, Department of Community and Economic Development) was designed to be used as a model or starting point by Alaska Municipalities when they are developing an ordinance for the acquisition and disposal of municipal lands in accordance with AS 29.35.090. Municipalities considering using this model ordinance should consult with their attorneys before adopting this or a similar ordinance.

(DRAFT MODEL ORDINANCE July, 1988

CITY OF _____, ALASKA
ORDINANCE NO. _____

AN ORDINANCE PERTAINING TO THE ACQUISITION, MANAGEMENT, AND
DISPOSAL OF MUNICIPAL LAND

BE IT EACTED BY THE CITY COUNCIL AS FOLLOWS:

Sections

1. Rights and powers of city
2. Acquisition of land.
3. Economic development sites.
4. Temporary use of city lands.
5. Casual use of city lands.
6. Disposal of real property.
7. Methods of disposal.
8. Leases.
9. Easements.
10. Notice of disposal.
11. Definitions.

Section 1. Rights and powers of city

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of real property in any manner not prohibited by law.

Section 2. Acquisition of land.

A. The city may acquire, own, and hold real property or any interest in real property inside or outside the city boundaries by purchase, lease, exchange, transfer, donation, condemnation or declaration of taking under the city's power of eminent domain, or any other legal method. Unless otherwise directed by the city council, the mayor has authority to negotiate the terms of acquisitions, subject to council approval. Except as provided in sub-sections B and C of this section, and unless otherwise provided by law, all acquisitions shall be by resolution approved by a majority vote of the total membership of the city council. Real property shall be held in the name of "City of _____".

B. Upon passage of a resolution approved by a majority vote of the total membership of the city council, the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property when that property to be acquired is conveyed from the Native Village Corporation in partial satisfaction of the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA). When the conveyance is for full and complete satisfaction of the requirements of ANCSA Section 14(c)(3), a non-code ordinance shall be passed which shall include: a statement identifying the amount of land to be acquired; a legal description; a statement that the conveyance, in conjunction with any previous partial reconveyances, is in complete satisfaction of the ANCSA 14(c)(3) obligation; a finding that the lands are sufficient for existing and foreseeable community needs; and a statement of facts supporting that finding.

C. The city may exercise the powers of eminent domain and declaration of taking in the performance of a cower or function of the city in accordance with AS 09.55.240 09.55.460. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall to submitted to the qualified voters at the next regularly scheduled general election or a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

D. The city council may approve and authorize the purchase of real property or interest in real property by contract of sale, deed of trust, or lease.

E. Prior to approval of the purchase of property under sub-section D of this section, the mayor shall furnish the city council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition. The validity of any acquisition or purchase of real property by the city is not affected by the failure to furnish the city council with such materials.

Section 3. Economic development sites. (OPTIONAL PROVISION)

The city may acquire, own, and hold real property, either inside or outside the city boundaries, as sites available for new industries which will benefit the city.

Section 4. Temporary use of city lands. (OPTIONAL PROVISION)

The mayor has the authority to issue special land use permits for the exclusive temporary use of city lands. A special land use permit does not convey an interest in the land and may be revoked for cause with 30 days notice. Unless otherwise agreed to in writing, the land will be restored to its original condition upon expiration or revocation of the permit. Easements will not be granted under a special land use permit.

Public comment shall be sought before the issuing of a special land use permit in those situations where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area. Notice of the proposed action shall be published and a period for public comment shall be provided. When significant adverse comment is received, a public hearing shall be held.

A special land use permit shall not be granted for a term exceeding one year. Special land use permits are not transferable nor renewable. Upon expiration, a special land use permit may be re-issued for a term not exceeding one year.

If a fee is charged for the issuance of a special land use permit, the fee schedule shall be established by the city council.

Section 5. Casual use of city land. (OPTIONAL PROVISION)

A. No permit or lease is required for casual uses of city land.

B. Any use under this section is at the risk of the user. The city assumes no responsibility for such use.

C. The city shall notify the public of the location of city lands that are not open to casual use.

Section 6. Disposal of real property.

A. The city may dispose of real property or an interest in real property which has been found to be no longer necessary for municipal purposes. All disposals shall be by non-code ordinance. The minimum time between introduction and adoption of ordinances for disposals other than by sealed bid or public outcry or lottery shall be _____ longer than required for other non-code ordinances. The ordinance shall include:

1. A finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
2. A legal description of the property;
3. Type of interest in property to be disposed of as defined in section 11;
4. The purpose of the disposal;
5. The method of disposal as identified in section 7;
6. The value of the property or the value of the interest in property as determined under subsection B of this section;
7. The procedure for conducting the disposal and the time, place and manner in which the proposed disposal shall occur.

B. The value of the property or interest in property shall be fair market value as determined by an appraisal prepared by a qualified appraiser or assessor, or the city council may determine the fair market value by any other means it deems appropriate.

Section 7. Methods of disposal.

A. All disposals shall be conducted in a fair and impartial manner. Procedures for conducting all disposals shall be set out in the non-code ordinance authorizing each disposal.

B. Competitive disposal. The city may conduct the following types of competitive disposal:

1. Sealed bid auction. The minimum bid for a sealed bid auction shall be the fair market value of the property or interest in property as determined under section 6 B.

2. Public outcry auction. The minimum bid for a public outcry auction shall be the fair market value of the property or interest in property as determined under section 6 B.

3. Lottery. In the case of a lottery, the price of the property or interest in property may be established by the city council.

C. Disposal for public services.

The city council may dispose of real property or an interest in real property to a municipality, state, or federal entity or to a non-profit corporation or association, or a Native Tribal council, when the recipient is providing a necessary public service to residents of the municipality, without seeking bids and for less than the fair market value of the real property or interest in real property. If a disposal is made under this sub-section, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the disposal to the entity is for provision of a necessary public service and a statement of facts upon which such a finding is based;

2. A requirement that the conveyance of the property or property interest disposed include a condition that the title will revert to the municipality in the event the property is no longer used for the necessary public service justifying the disposal; and

3. In the event that the entity receiving the property or interest in real property is a Native Tribal council, a requirement that the Native Tribal council waive any immunity from suit for the purpose of enforcing the reversion provision.

D. Disposal for economic development.

The city council may dispose of real property or an interest in real property to any person or entity in furtherance of local trade or industry without seeking bids and for less than the fair market value of that real property or interest in real property as determined under section 6 B. If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the property or property interest which is the subject of the disposal will be used in furtherance of local trade or industry; and

2. A requirement that the conveyance of the property or property interest disposed include a condition that title will revert to the municipality in the event the property is no longer used for the local trade or industry justifying the disposal.

E. Miscellaneous disposals.

The city council may settle disputed claims or litigation by authorizing disposal of real property or an interest in real property.

F. Disposal to settle claims of equitable interest.

Upon a finding by the city council that it is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a person who has a valid claim of equitable interest in the property or in a substantial improvement located upon the property. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance.

G. Disposal for residential purposes.

Upon a finding by the city council that there is a current residential housing shortage in the community and that making land available for residential purposes at less than market value is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance. When real property or interest in real property is disposed of pursuant to this subsection, the deed or lease must contain a condition subsequent which ensures that if the land is used for any use other than residential use for a period of ____ years after the disposal, title will revert to the city. In addition, disposals under this subsection shall include a requirement for the construction of a habitable dwelling within ____ years after the disposal or title will revert to the city.

Section 8. Leases.

A disposal of interest in real property by lease shall follow the requirements of sections 6 and 7. The terms and conditions of leases shall be established by the city council for each such disposal.

Section 9. Easements.

The disposal of interest in real property by grant of easement shall follow the requirements of sections 7 and 8. The terms and conditions of easements shall be established by the city council for each such disposal.

Section 10. Notice of disposal.

A. A notice of the disposal shall be posted in three conspicuous public places within the city not less than _____ before:

1. The date of the bid opening; or
2. The date of the lottery; or
3. The date of the auction; or
4. The date of the disposal.

B. The notice shall include:

1. A legal description of the property and the type of interest to be disposed;
2. The method of disposal as identified in section 7;
3. The assessed or estimated value of the property or interest in property;
4. The date of the proposed disposal and the time, place, and manner in which the proposed disposal shall occur.

Section 11. Definitions.

As used in this Chapter:

Abstract of title:	A condensed history of the title to land together with a statement of all liens, charges, or liabilities to which the land may be subject.
Appraisal:	An estimation of value of property by a qualified appraiser.
Casual use:	The temporary, safe, non-exclusive and non-surface-disturbing use of city land and includes but is not limited to such uses as: hiking, hunting, fishing, short-term camping, picnicking, skiing, snowmachining or berry picking.
City boundaries:	The city limits, established when the city is incorporated, inside which all city ordinances are enforceable.
Competitive disposal:	A disposal of property wherein no preference is shown to any prospective bidder or group of bidders.
Condition subsequent:	An event that occurs after transfer of title which will act to restore title to the maker of the condition.

Contract of sale:	A contract between a willing seller and a willing buyer to transfer title to property.
Deed of trust:	An instrument, taking the place and serving the uses of a mortgage, by which legal title to real property is placed in a trustee, to secure the repayment of a sum of money or the performance of other conditions.
Disposal:	The act of giving away or selling; the transfer of interest in property.
Disputed claims:	Claim for property that is protested by another, or for property which is also claimed by another.
Domiciled resident:	One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the City his/her permanent residence.
Easement:	A right or privilege in another's land, such as the right to cross for a specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.
Economic development:	To promote the growth of the local economy; increase income of residents.
Eminent domain:	The power of a municipality to convert private property to a public use.
Equitable interest:	A claim (in property or other) which should be recognized in the interest of fairness or equity.
Evaluate:	To judge the quality of.
Federal entity:	The Federal government or an agency thereof.
Hazardous use:	A use involving danger; perilous; risky to human health and well-being.
Interest:	In property: A right, claim, title, or legal share in that property. Refers to the "bundle of rights", which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
Inventory:	A list of property, containing a description of each article of property.
Lease:	Leases are used to dispose of specific interests in real property without transferring ownership of that property; A contract for exclusive possession of lands or tenements for a determinate period.
Legal description:	That part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.
Litigation:	Contest in a court of justice for the purpose of establishing a right.
Lottery:	A plan whereby the right to obtain interest in property, either by purchase or gift, is decided by luck or chance through some type of drawing of names.
Municipality:	A unit of local government organized under the laws of the State of Alaska.

Non-code ordinance: An ordinance that is not part of the permanent city code.

Non-profit corporation: An organization formed under the laws of the State of Alaska not to obtain a profit, but to supply an essential service to its constituents.

Obnoxious use: A use which people may find objectionable; disagreeable; offensive; displeasing.

Public interest: Something in which the public, the community at large, has some pecuniary interest (having to do with money), or some interest by which their legal rights or liabilities are affected.

Public outcry auction: Sale of property to the highest bidder, at a public auction, where each prospective buyer has the right to enter successive bids until a price is reached at which no higher subsequent bid is made.

Public service: Activities and enterprises which specially serve the needs of the general public.

Referendum: A method of submitting an important measure to the direct vote of the whole people.

Revert: With respect to Property, title to go back to and lodge in former owner.

Sealed bid: A written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.

State: The State of Alaska or an agency thereof.

Substantial Improvement: A major change or addition to land or real property that makes it more valuable.

Temporary uses: An exclusive use of city land which has a duration of one year or less, involves minimal disturbance to the land, and does not allow permanent structures or improvements exceeding \$____.

Valid Claim: A legally enforceable claim by a third party.

INTRODUCTION: _____
PUBLIC HEARING: _____

PASSED and APPROVED by the _____ CITY COUNCIL
THIS ____ day of _____, 20__.

MAYOR

ATTEST: _____
CITY CLERK

IV. NOTES REGARDING PROVISIONS OF THE
MODEL CODE ORDINANCE FOR THE ACQUISITION
MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS
(July, 1988 draft)

Following are notes regarding the purpose, content, and possible optional language for the provisions of the DCBD model code ordinance for the acquisition, management, and disposal of municipal lands. In this section, language from individual provisions from the model code are quoted, then followed by explanatory notes.

Section 1. Rights and powers of city.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of real property in any manner not prohibited by law.

NOTES

This provision is the general authority upon which this ordinance is based.

Section 2. Acquisition of land.

A. The city may acquire, own, and hold real property or an interest in real property inside or outside the city boundaries by purchase, lease, exchange, transfer, donation, condemnation or declaration of taking under the city's power of eminent domain, or any other legal method. Unless otherwise directed by the city council, the mayor has authority to negotiate the terms of acquisitions, subject to council approval. Except as provided in subsections B and C of this section, and unless otherwise provided by law, all acquisitions shall be by resolution approved by a majority vote of the total membership of the city council. Real property shall be held in the name of "City of _____".

NOTES

This subsection generally lists the ways the city can acquire land. The list is not all-inclusive. This provision states that the mayor can negotiate acquisitions but the acquisition is not approved until a resolution is passed by a majority vote of the city council all acquisitions shall be by resolution except for lands received under subsections B and C of this section. A resolution is recommended as the primary way in which the city acquires land since most acquisitions will be of a routine nature. Keep in mind that when the city purchases land, any appropriation of funds for that purpose will need to be approved through an ordinance process [AS 29.25.010(a)(4)].

Section 2. Acquisition of land. (Continued)

B. Upon passage of a resolution approved by a majority vote of the total membership of the city council, the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property when that property to be acquired is conveyed from the Native Village Corporation in partial satisfaction of the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA). When the conveyance is for full and complete satisfaction of the requirements of ANCSA Section 1(c)(3), a non-code ordinance shall be passed which shall include: a statement identifying the amount of land to be acquired; a legal description; a statement that the conveyance, in conjunction with any previous partial reconveyances, is in complete satisfaction of the ANCSA 14(c)(3) obligation; a finding that the lands are sufficient for existing and foreseeable community needs; and a statement of facts supporting that finding.

NOTES

This provision allows partial reconveyances of ANCSA 14(c)(3) lands to be approved by resolution, but the final agreement (when the city and village corporation agree on the amount and location of the acreage that represents a full and complete satisfaction of the requirements of ANCSA 14(c)(3)) must be accomplished through passage of a non-code ordinance. The reasons for approving the final ANCSA 14(c)(3) agreement by non-code ordinance are: 1) an ordinance process requires several readings of the ordinance, posting of the ordinance, and a public hearing. Approval by resolution does not necessarily involve public review or a public hearing; and 2) if the ANCSA 14(c)(3) agreement is for less than 1,280 acres, the city is essentially disposing of an interest in the difference between what acreage they will be receiving and a potential entitlement of 1,280 acres. Therefore, it is the Department's interpretation that if the city is disposing of an interest in land, such a disposal must go through a non-code ordinance process.

NOTES ON Section 2 (B, Continued)

For the Final ANCSA 14(c)(3) agreement, approval by resolution would probably be acceptable if the city and Native village corporation agree to reconvey a total of 1,280 acres or more to the city under ANCSA 14(c)(3). However, for the purposes of simplifying this model ordinance language and providing the required public hearing and posting requirements, we recommend that all final 14(c)(3) agreements be approved through a non-code ordinance process.

Also in section 2(B), it is specified that the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property of interest of real property. The city may wish to word this so that the city council can select someone other than the mayor (e.g., city manager, or other city official) to act on behalf of the city for acquisition of real property.

Section 2. Acquisition of land. (Continued)

C. The city may exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the city in accordance with AS 09.55.240 - 09.55.460. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

NOTES

This provision requires that receipt of land through the city's powers of eminent domain be in accordance with Title 29. In second class cities, this type of acquisition of lands requires the ordinance to be approved by a majority of votes by qualified voters. For home rule and first class cities, such a vote is not mandatory. Therefore, for home rule and first class cities, the second and third sentences of subsection 2(C) could be deleted and replaced with the following:

"The exercise of the power of eminent domain or declaration of taking shall be by ordinance."

Section 2. Acquisition of land. (Continued)

D. The city council may approve and authorize the purchase of real property or interest in real property by contract of sale, deed of trust, or lease.

NOTES

This provision outlines the methods of payment that the city can use in the acquisition of land. Contract of sale is used when the purchase will be for cash, and deed of trust is used when the payments will be spread out over a period of time (terms). Purchase of interests in land would also be for cash or terms.

Section 2. Acquisition of land. (Continued)

B. Prior to approval of the purchase of property under subsection D of this section, the mayor shall furnish the city council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition. The validity of any acquisition or purchase of real property by the city is not affected by the failure to furnish the city council with such materials.

NOTES

The intent of this provision is to ensure that property bought by the city has clear title, is purchased for a fair value, and the council has been made aware of any problems that may have arisen throughout the negotiation process. If the council purchases property without those materials, that will not be cause for a third party (anyone who was not involved in the transaction) to invalidate the sale. This provision prevents the mayor from blocking an acquisition of property by refusing to follow council direction.

Section 3. Economic development sites. (OPTIONAL PROVISION)

The city may acquire, own, and hold real property, either inside or outside the city boundaries, as sites available for new industries which will benefit the city.

NOTES

Although it was already established in section 2(A) of this model ordinance that a city can acquire and hold property outside city boundaries, this section emphasizes that the city can own such properties for future economic development.

Section 4. Temporary use of city lands. (OPTIONAL PROVISION)

The mayor has the authority to issue special land use permits for the exclusive temporary use of city lands. A special land use permit does not convey an interest in the land and may be revoked for cause with 30 days notice. Unless otherwise agreed to in writing, the land will be restored to its original condition upon expiration or revocation of the permit. Easements will not be granted under a special land use permit.

Public comment shall be sought before the issuing of a special land use permit in those situations where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area. Notice of the proposed action shall be published and a period for public comment shall be provided. When significant adverse comment is received, a public hearing shall be held.

A special land use permit shall not be granted for a term, exceeding one year. Special land use permits are not transferable nor renewable. Upon expiration, a special land use permit may be re-issued for a term not exceeding one year.

If a fee is charged for the issuance of a special land use permit, the fee schedule shall be established by the city council.

NOTES

This optional section is one of the ways the city can make land available for use without conveying an interest in the land. Temporary use of land allows an exclusive use of the land by an applicant for a period of one year or less. This gives the city a formal process for managing use of city lands.

For example: a private operator needs a place to store equipment during the construction phase of a project within the community. The city has some vacant land near the construction site that would be ideal for this purpose. The private operator applies for a temporary use permit to use the site and is granted a permit from the city. Once the permit is in effect, the operator has exclusive use of the site for up to one year. No one else will be able to park their vehicles on the site or otherwise use the site until the temporary use permit has expired.

NOTES ON SECTION 4, Continued

The intent in having a temporary land use permitting system is to allow the city to handle short-term uses (for example, events) on city land by a relatively simple permit instead of having to go through a leasing process. If a lease were used, it would need to be approved through the non-code ordinance process since a lease is a disposal of an interest in land. According to this model ordinance, if an applicant wishes to have exclusive use to city land for one year or less, it is handled through the temporary use permit system. An exclusive use proposed for more than a year would be handled with a lease or deed to the land through the land disposal process.

A sample temporary land use permit application is included in section VI of this notebook. Additional procedures may need to be developed depending on the needs of the city involved.

Section 5. Casual use of city land. (OPTIONAL PROVISION)

- A. No permit or lease is required for casual uses of city land.
- B. Any use under this section is at the risk of the user. The city assumes no responsibility for such use.
- C. The city shall notify the public of the location of city lands that are not open to casual use.

NOTES

This optional provision is another way the city can make land available for use without conveying an interest in the land. In this instance, however, use of the site is not exclusive to one applicant but available to the general public. This provision basically clarifies the type of uses that are allowed on city lands without a permit. A definition of "casual use" and a short sample list of uses fitting this category are included in section 11 of the model code ordinance.

Part "B" of this section does not serve to relieve the City of all liability invoiced in the casual use of City lands. However, it does put users of the site on notice so as to require a higher standard of care on their part.

Part "C" requires the City to notify the public regarding the location of City lands that are not open to casual use. The City may also want to include in the ordinance the minimum posting requirements for the information required under parts B and C of this section.

Section 6. Disposal of real property.

A. The city may dispose of real property or an interest in real property which has been found to be no longer necessary for municipal purposes. All disposals shall be by non-code ordinance. The minimum time between introduction and adoption of ordinances for disposals other than by sealed bid or public outcry or lottery shall be _____ longer than required for other non-code ordinances. The ordinance shall include:

1. A finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
2. A legal description of the property;
3. Type of interest in property to be disposed of as defined in section 11;
4. The purpose of the disposal;
5. The method of disposal as identified in section 7;
6. The value of the property or the value of the interest in property as determined under subsection B of this section;
7. The procedure for conducting the disposal and the time, place and manner in which the proposed disposal shall occur.

NOTES

This subsection states that the city can only dispose of real property (or interests in real property) that is no longer necessary for municipal purposes. Such disposals can only be done through a non-code ordinance process.

In the third sentence of subsection A, a city is given an option to add the amount of time between introduction and adoption of a non-code ordinance for non-competitive types of land disposals. The reason for this is to allow adequate public review time before the ordinance is passed which would allow the disposal. The city's usual non-code ordinance timetable (from introduction to passage) may be too short (e.g., 5 days) to allow adequate public review.

NOTES ON SECTION 6 (A), Continued

For example, if a city has adopted only the minimum time requirements for passing an ordinance as set out in AS 29.25.020, the city only needs 5 days between the introduction of the ordinance and the public hearing regarding the proposed ordinance. Adoption of the ordinance could also take place on the same day as the public hearing. This timetable is shown below:

Day 1		Day 2		Day 7
Introduction of ordinance.		Public hearing notice + summary of proposed ordinance.		Public hearing held on proposed ordinance. The city council could also hold a meeting on same day to pass the ordinance.

For competitive types of disposals (e.g., sealed bids, public outcry auction, or lottery), this model code ordinance allows passage in accordance with the usual City non-code ordinance timetable, but adds public review time after the non-code ordinance is passed (refer to section 10 of the model code ordinance). The reason for this is since the disposals are to be competitive, it may not be necessary to have extensive public review before the disposal is authorized. However, the public should have adequate time to look over the lands to be disposed of (by competitive means) in case they are interested in bidding on a particular lot.

A City may wish to standardize the time between introduction and passage of non-code ordinances for both non-competitive and competitive types of disposals. If this is the case, the third sentence of section 6, part "A" could read: "The minimum time between introduction and adoption of ordinances for all disposals shall be days _____ longer than required for other non-code ordinances."

In addition to timeframe considerations, a city may not want the public hearing regarding a non-code ordinance on the same night the ordinance can be passed. If this is the case, a city could insert another sentence under section 6, part "A" which reads: "The ordinance approving the disposition may not be considered for passage at the same meeting at which the public hearing is held."

Or, the city could further specify a minimum period of days between the public hearing and the meeting which will be held to consider adoption of the ordinance.

NOTES ON SECTION 6 (A), Continued

Also within subsection "A" are requirements for what information must be contained in the city's land disposal non-code ordinances. Following is more information regarding items #1, 3, and 4. Items #2 and 7 are fairly self-explanatory. Items #5 and 6 are explained below under the discussions for section 7 and section 6(B), respectively.

1. This item requires a finding of fact by the city that the property (or interest in property) to be disposed of is no longer necessary for municipal purposes. This is necessary since the disposition of city property is a matter affecting the public interest. If this item were not required, the city council could be in a position of taking a risk by disposing of lands that should have been kept in city ownership for possible public use either now or in the foreseeable future.

3. The most common methods of disposal of interest in real property that the city will be considering include: deed, lease, or easement.

4. On the surface, this item appears straightforward. However, when the city is disposing of lands at less than fair market value or if preference provisions are being used, it is important for the city to state: 1) how a public purpose is being met by the disposal; and 2) how these "special" provisions of the disposal will meet a legitimate governmental objective. For example, if lands are being disposed of in a non-competitive manner (e.g., less than fair market value and having residency requirements), it must be evident what public purpose is being achieved by not making these lands available to the general public (including non-residents of the community) at fair market value.

Section 6. Disposal of real property (Continued)

B. The value of the property or interest in property shall be fair market value as determined by an appraisal prepared by a qualified appraiser or assessor, or the city council may determine the fair market value by any other means it deems appropriate.

NOTES

This subsection gives the city council considerable flexibility in how they may determine fair market value of the property to be disposed. Following is a short discussion of alternatives the city may want to consider in determining fair market value.

- 1) The city can hire a professional appraiser to determine the value of the property.
- 2) The city, if within a borough, can determine the value of a particular property by obtaining that information from the borough assessor.
- 3) The city can estimate the value of the land based on sales of similar lands in nearby communities.
- 4) In lieu of the above possibilities, the city council can reach a consensus on a fair price for lands within their community.

Section 7. Methods of disposal.

A. All disposals shall be conducted in a fair and impartial manner. Procedures for conducting all disposals shall be set out in the non-code ordinance authorizing each disposal.

NOTES

General: Section 7 outlines general requirements for the different types of land disposals that the city may elect to conduct. Subsection B lists competitive disposal methods while subsections C-G include non-competitive disposal methods.

Subsection A is self-explanatory.

Section 7. Methods of disposal. (Continued)

B. Competitive disposal. The city may conduct the following types of competitive disposal:

1. Sealed bid auction. The minimum bid for a sealed bid auction shall be the fair market value of the property or interest in property as determined under section 6 B.
2. Public outcry auction. The minimum bid for a public outcry auction shall be the fair market value of the property or interest in property as determined under section 6 B.
3. Lottery. In the case of a lottery, the price of the property or interest in property may be established by the city council.

NOTES

- B. This subsection basically indicates the types of competitive disposals that may be conducted by the city and the minimum bid or price (with respect to the fair market value) that will be allowed for these disposals. For disposals by lottery, the code ordinance is worded so that the city council is not necessarily locked into setting a fair market value on the property to be disposed. In this model ordinance, a lottery is seen as the method to determine who will get a parcel of land if more than one party applies for the parcel through a non-competitive disposal. Therefore, since some types of non-competitive disposals will be for less than fair market value, the model code allows "tie-breaker" types of lotteries to dispose of land for less than fair market value. In totally competitive land disposal programs, the city would probably want to set the minimum at a fair market value as established by the city council.

In addition to the three types of competitive disposal methods listed in this model ordinance, a city may also wish to include, as another competitive disposal method, disposal of land through a proposal process. For example, this type of disposal method is useful if the city had a tract of land they wanted to dispose of for industrial development. Although the proposal process can be fairly involved, it would allow the city to determine which proposes would most benefit the community in terms of economic development, local hire, etc. Additional information on disposal by proposals can be found in "The Municipal Advisor" newsletter (a copy is located in the legal supplement to this training notebook).

Section 7. Methods of disposal. (Continued)

C. Disposal for public services.

The city council may dispose of real property or an interest in real property to a municipality, state, or federal entity or to a non-profit corporation or association, or a Native Tribal council, when the recipient is providing a necessary public service to residents of the municipality, without seeking bids and for less than the fair market value of the real property or interest in real property. If a disposal is made under this subsection, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the disposal to the entity is for provision of a necessary public service and a statement of facts upon which such a finding is based;
2. A requirement that the conveyance of the property or property interest disposed include a condition that the title will revert to the municipality in the event the property is no longer used for the necessary public service justifying the disposal; and
3. In the event that the entity receiving the property or interest in real property is a Native Tribal council, a requirement that the Native Tribal council waive any immunity from suit for the purpose of enforcing the reversion provision.

NOTES

Disposal for public services: This provision allows the city to dispose of land or interest in land to specified types of entities if the entity is providing a necessary public service to residents of the municipality. The land or interest in land under this provision can also be disposed of at less than fair market value, however this is up to the city council. The other key stipulations on this type of disposal are: property must be used for the purpose for which it was conveyed or title will revert back to the municipality; and Native Tribal councils must waive any immunity from suit for the purpose of *enforcing* the reversion provision.

It should be noted that reverter clauses can only be enforced by a positive action. For example, the city would have to take formal action to get the property back. The title does not automatically revert if it is found that a condition in the deed (connected to a reverter clause) was not met. In addition, reverter clauses can later be retracted by the city council if they so choose.

Section 7. Methods of disposal. (Continued)

D. Disposal for economic development.

The city council may dispose of real property or an interest in real property to any person or entity in furtherance of local trade or industry without seeking bids and for less than the fair market value of that real property or interest in real property as determined under section 6 E. If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the property or property interest which is the subject of the disposal will be used in furtherance of local trade or industry; and
2. A requirement that the conveyance of the property or property interest disposed include a condition that title will revert to the municipality in the event the property is no longer used for the local trade or industry justifying the disposal.

NOTES

Disposal for economic development: this provision allows disposal of property or interest in property to any entity in furtherance of local trade or industry. The city council can dispose of property under this provision for less than fair market value if the city so chooses. As with lands disposed for public services, title to property disposed for economic development can revert back to the city if the property is no longer being used for the purpose for which it was conveyed.

Section. 7. Methods of disposal. (Continued)

E. Miscellaneous disposals.

The city council may settle disputed claims or litigation by authorizing disposal of real property or an interest in real property.

NOTES

Miscellaneous disposals: This subsection allows the city council to settle disputed claims or litigation by disposing of real property or interests in real property. For example, there could be two individuals who both have houses on a single federal townsite lot. Neither individual received deeds to the lot when the land was owned by the federal government. Subsequently, the land was deeded to the city. Through the city land disposal ordinance, the city can resolve the disposal of land to these individuals through a negotiation process.

Section 7. Methods-of-disposal. (Continued)

F. Disposal to settle claims of equitable interest.

Upon a finding by the city council that it is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a person who has a valid claim of equitable interest *in* the property or *in* a substantial improvement located upon the property. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance.

NOTES

Disposal to settle valid claims of equitable interest: This provision allows the city to dispose of real property or interest in real property in order to settle valid claims of equitable interest. The city council can, if they so choose, dispose of this property for less than fair market value.

The intent of this provision is to allow the city to clear up title problems. As an example, city officials gave verbal approval to an individual to build his house on a vacant federal townsite lot. Since the house was built after the federal townsite survey was approved, the individual was not eligible for a deed to the lot from the federal townsite trustee. Subsequently, the federal townsite trustee deeded to the city all the lots that had not been deeded to eligible individuals in the community. As a result, the city now owns the lot that the individual has built his house on. Through this provision in the land disposal ordinance, the city can dispose this lot to the individual who has been living on it. The city can also dispose of the lot for less than fair market value.

This provision also allows the city to dispose of real property or interests in real property to individuals who had substantial improvements on the property. Examples of substantial improvements include a house, cabin, or other habitable dwelling. This provision would normally apply to one lot per person or family.

Section 7. Methods of disposal. (Continued)

G. Disposal for residential purposes.

Upon a finding by the city council that there is a current residential housing shortage in the community and that making land available for residential purposes at less than market value is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance. When real property or interest in real property is disposed of pursuant to this subsection, the deed or lease must contain a condition subsequent which ensures that if the land is used for any use other than residential use for a period of ____ years after the disposal, title will revert to the city. In addition, disposals under this subsection shall include a requirement for the construction of a habitable dwelling within ____ years after the disposal or title will revert to the city.

NOTES

Disposal for residential purposes: This subsection allows the city to convey real property or interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. The intent of this provision is to make land available to residents for housing at a cost they can afford. A major stipulation in this type of disposal is that the property must be used for residential purposes for a certain number of years. If this condition is not met, the title reverts back to the city. This condition assures the city control over use of the land. The period of years is not specified in the model ordinance since this will vary depending on the needs of each community.

Another condition specifies that a habitable dwelling must be constructed and the applicant must reside in the dwelling for a specified period. If either of these conditions are not met, title will revert back to the city. Again, a specific period of time is not given in this model ordinance since the period used will be based on a specific community's needs. The major purpose of this condition is to minimize speculation practices.

NOTES ON SECTION 7 (G), Continued

In section 11 of the model code ordinance, "domiciled resident" is defined as:

"One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the city his/her permanent residence."

This definition basically means that a person had to have lived in the community the immediate 30 days previous to passage of the ordinance, still maintains an address in the community, and will sign a statement that says he/she intends to make a permanent home in the community. The latter intent requirement can be a hassle to disprove, however the "prove-up requirements" built into the ordinance (i.e., must build a residence within ____ years and the land must be used for residential purposes) essentially accomplishes the same purpose. If the city has a zoning ordinance, these prove-up requirements may not be necessary to keep the land for residential purposes.

It may be argued that the city can make lands available for housing and at less than fair market value under other provisions of this ordinance. This provision specifies, however, that the use of the land must be for housing only other types of competitive disposals have not restricted the types of use to which the land may be put. Competitive disposals must also dispose of property for the "fair market value" as determined under section 6(B). This provision is similar, therefore, to the other special types of non-competitive disposals (for example, public services, economic development, or settling of equitable interests).

Section 8. Leases.

A disposal of interest in real property by lease shall follow the requirements of sections 6 and 7. The terms and conditions of leases shall be established by the city council for each such disposal.

NOTES

This section basically states that leases are subject to disposal provisions of sections 6 and 7. This section also states that additional terms and conditions for leases shall be established by the city council.

Section 9. Easements.

The disposal of interest in real property by grant of easement shall follow the requirements of sections 7 and 8. The terms and conditions of easements shall be established by the city council for each such disposal.

NOTES

This section basically states that easements are subject to disposal provisions of sections 6 and 7. The most likely disposals of easements will be for utility line easements (fuel or electricity) for privately operated utility companies.

Section 10. Notice of disposal.

A. A notice of the disposal shall be posted in three conspicuous public places within the city not less than _____ days before:

1. The date of the bid opening; or
2. The date of the lottery; or
3. The date of the auction; or
4. The date of the disposal.

NOTES

This subsection specifies the minimum posting requirements for competitive disposals. As discussed under section 6, the intent of this provision is to allow time between the passage of the non-code ordinance for competitive disposals and the actual disposal itself. This additional time period can be used by the public to look over any lots or parcels they may be interested in bidding on. As stated earlier in these notes (section 6), the city may wish to standardize public notice requirements to be used for both competitive and non-competitive types of disposals.

Although not specified in this model ordinance, the city must publish a summary of the proposed ordinance authorizing any disposal in accordance with AS 29.25.020(b)(3).

Section 10 Notice of disposal. (Continued)

B. The notice shall include:

1. A legal description of the property and the type of interest to be disposed;
2. The method of disposal as identified in section 7;
3. The assessed or estimated value of the property or interest in property;
4. The date of the proposed disposal and the time, place, and manner in which the proposed disposal shall occur.

NOTES

This subsection specifies what needs to be included on the notice for a proposed land (or interest in land) disposal.

SECTION 11 Definitions.

As used in this Chapter:

Abstract of title: A condensed history of the title to land together with a statement of all liens, charges, or liabilities to which the land may be subject.

Appraisal: An estimation of value of property by a qualified appraiser.

Casual use: The temporary, safe, non-exclusive and non-surface-disturbing use of city land and includes but is not limited to such uses as: hiking, hunting, fishing, short-term camping, picnicking, skiing, snowmachining or berry picking.

City boundaries: The city limits, established when the city is incorporated, inside which all city ordinances are enforceable.

Competitive disposal: A disposal of property wherein no preference is shown to any prospective bidder or group of bidders.

Condition subsequent: An event that occurs after transfer of title which will act to restore title to the maker of the condition.

Contract of sale: A contract between a willing seller and a willing buyer to transfer title to property.

Deed of trust: An instrument, taking the place and serving the uses of a mortgage, by which legal title to real property is placed in a trustee, to secure the repayment of a sum of money or the performance of other conditions.

Disposal: The act of giving away or selling; the transfer of interest in property.

Disputed claims: Claim for property that is protested by another, or for property which is also claimed by another.

Domiciled resident: One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the City his/her permanent residence.

Easement: A right or privilege in another's land, such as the right to cross for a specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.

Economic development: To promote the growth of the local economy; increase income of residents.

Eminent domain: The power of a municipality to convert private property to a public use.

Equitable interest: A claim (in property or other) which should be recognized in the interest of fairness or equity.

Evaluate: To judge the quality of.

Federal entity: The Federal government or an agency thereof.

Hazardous use: A use involving danger; perilous; risky to human health and well-being.

Interest: In property: A right, claim, title, or legal share in that property. Refers to the "bundle of rights", which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.

Inventory: A list of property, containing a description of each article of property.

Lease: Leases are used to dispose of specific interests in real property without transferring ownership of that property; A contract for exclusive possession of lands or tenements for a determinate period.

Legal description: That part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.

Litigation: Contest in a court of justice for the purpose of establishing a right.

Lottery: A plan whereby the right to obtain interest in property, either by purchase or gift, is decided by luck or chance through some type of drawing of names.

Municipality: A unit of local government organized under the laws of the State of Alaska.

Non-code ordinance: An ordinance that is not part of the permanent city code.

Nonprofit corporation: An organization formed under the laws of the State of Alaska not to obtain a profit, but to supply an essential service to its constituents.

Obnoxious use: A use which people may find objectionable; disagreeable; offensive; displeasing.

Public interest: Something in which the public, the community at large, has some pecuniary interest (having to do with money), or some interest by which their legal rights or liabilities are affected.

Public outcry auction: Sale of property to the highest bidder, at a public auction, where each prospective buyer has the right to enter successive bids until a price is reached at which no higher subsequent bid is made.

Public service: Activities and enterprises which specially serve the needs of the general public.

Referendum: A method of submitting an important measure to the direct vote of the whole people.

Revert: With respect to property, title to go back to and lodge in former owner.

Sealed bid: A written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.

State: The State of Alaska or an agency thereof.

Substantial Improvement: A major change or addition to land or real property that makes it more valuable.

Temporary uses: An exclusive use of city land which has a duration of one year or less, involves minimal disturbance to the land, and does not allow permanent structures or improvements exceeding \$_____.

Valid Claim: A legally enforceable claim by a third party.

NOTES

This section contains definitions of terms used throughout the ordinance. A city may wish to reduce the number of terms defined within this section to only terms having legal effect or most necessary to the ordinance provisions. These terms would likely include: casual use, disputed claim, domiciled resident, equitable interest, hazardous use, interest (in property), obnoxious use, public interest, substantial improvement, and temporary uses. All other terms that are defined in section 11 could be kept separate from the ordinance itself.

One term defined within this section, "temporary uses", contains a blank for the maximum value of improvements that will be allowed on the land that is subject to a temporary use permit. This value stipulation is an option the city may or may not want to use.

V. SAMPLE RESOLUTION AND NON CODE ORDINANCE FOR ACQUISITION OF MUNICIPAL LANDS

This section contains the following: 1) a sample resolution that a municipality can use to accept lands. This method of accepting lands can be used in most situations by a municipality; and 2) a sample non-code ordinance that a municipality can use to accept the final settlement of ANCSA 14(c)(3) lands.

RESOLUTION NO. _____

A RESOLUTION authorizing the City of _____ to acquire certain lands as provided for in Title _____ of the Municipal Code.

WHEREAS: The City has the authority, in accordance with Title ____, Chapter ____, Section ____, of the _____ Municipal Code, to acquire, manage and dispose of real property or interest in real property, and;

WHEREAS: The city has identified those lands described as _____
_____ as suitable for acquisition by the City, and;

WHEREAS: The City and ____ [the land owner] ____ have agreed on the conveyance of the land to the City, and;

WHEREAS: The City has budgeted for the acquisition costs in Ordinance #____.

NOW THEREFORE LET IT BE RESOLVED THAT: The Mayor of _____ is hereby directed to negotiate and execute any and all documents required to obtain that land as identified in paragraph 2 of this resolution. Title shall be held in the name of "City of _____, Alaska."

PASSED AND APPROVED BY THE _____ City Council
on _____, 20____ .

IN WITNESS THERETO:

By: _____

Signature and Title

Attest: _____

Signature and title

CHECKLIST OF PROCEDURES REQUIRED FOR APPROVAL OF 14 (c)(3) AGREEMENT

ANCSA Corporations, incorporated Cities and unincorporated communities must follow proper procedures when they enter into 14(c)(3) agreements. This checklist allows ANCSA village corporations to perform a “quick-check” to determine whether proper procedures have been followed. It addresses the major procedural formalities that must be followed for a 14(c)(3) agreement to be valid and binding on both parties. Any agreement that meets the requirements below is likely to be valid. Failure to meet these requirements does not necessarily mean that the agreement is invalid, but does indicate that a potential problem may exist. In such an event, corporations are recommended to contact their attorney for a more detailed review of the procedure used to approve the agreement.

NOTE: A 14(c)(3) agreement that meets the requirements of the checklist will probably not be invalid because of a failure to meet procedural requirements. However, because this checklist is not designed to address all potential problems or issues that may arise, this checklist should not be solely relied upon to determine the legal validity of a 14(c)(3) agreement. Any formal opinion as to the validity of a 14(c)(3) agreement can only be made by the attorney for the corporation, after a review of the individual facts of the corporation.

MUNICIPALITIES

All Municipalities:

- _____ Was the agreement approved by either ordinance or resolution?
- _____ Did the municipality follow all requirements established in the city’s charter and ordinances?
- _____ If the ordinance or resolution required execution (signing) of the agreement, was the agreement executed, and in the method established by the ordinance or resolution?
- _____ Did the municipality follow the Municipal Code’s conflict of interest requirement as written in AS 29.20.10?

**GENERAL LAW MUNICIPALITIES, AGREEMENT APPROVED AFTER
JANUARY 1, 1987 (ADDITIONAL REQUIRMENTS)**

_____ Did the municipality *by ordinance* establish a procedure for the 14(c) agreement process?

_____ Was the established procedure followed?

_____ Did the municipality follow the steps outlined above?

VILLAGE CORPORATIONS

_____ Was the 14(c)(3) agreement validly approved by the corporation's board of directors by resolution at a proper meeting?

_____ If the resolution required execution (signing) of the agreement, was the agreement executed, and in the method established by the resolution?

_____ Did the corporation follow all procedures and requirements established by its Articles of Incorporation and Bylaws?

UNINCORPORATED COMMUNITIES

_____ Did the corporation board approve the offer by resolution?

_____ Did the MLT review and decide whether the offer will be accepted?

_____ Was the offer accepted by resolution by the Appropriate Village Entity (AVE)?

_____ Was the written decision published in a newspaper of general distribution in the region?

_____ Did the AVE follow all MLT procedures outlined in their regulations?

CITY OF _____, ALASKA

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY TO ACQUIRE CERTAIN LANDS AS PROVIDED FOR IN SECTION 14(c)(3) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF ALASKA:

- Section 1.: Classification
- Section 2: Authority to acquire lands
- Section 3: Amount to be reconveyed
- Section 4: Acknowledgement of satisfaction of the requirements of ANCSA Section 14(c)(3)
- Section 5.: Acquisition for the City by the Mayor
- Section 6.: Legal description of the lands being reconveyed

Section 1. Classification.

This is a non-code ordinance.

Section 2. Authority to acquire lands.

The City is authorized to acquire lands in accordance with Title _____, Chapter _____, Section _____, of the _____ Municipal Code. Under the provisions of Section 14(c)(3) of ANCSA the City is entitled to receive 1,280 acres of surface estate from the _____ Native Corporation, unless a lesser amount is agreed to in writing by the City and the _____ Native Corporation.

Section 3. Amount to be reconveyed.

The City and the _____ Native Corporation mutually agree that approximately _____ acres of _____ Native Corporation land as identified in Section 6 of this ordinance is to be reconveyed to the City. The City finds that this amount is sufficient for the existing and foreseeable community needs of the City of _____ and by this ordinance relinquishes the right to an additional _____ acres of _____ Native Corporation land. (The real property to be reconveyed by the _____ Native Corporation is compatible with accepted land uses as described in the City of _____ Comprehensive Development Plan.)

Section 4. Acknowledgement of satisfaction of the requirements of ANCSA Section 14(c)(3).

The _____ Native Corporation, by this reconveyance, meets its legal obligation to reconvey land to the City under Section 14(c)(3) of ANCSA. The reconveyance of this land is in consideration of the requirements of ANCSA Section 14(c)(3) and is without further consideration. The City of _____ acknowledges that this reconveyance is in full and complete satisfaction of the _____ Native Corporation's obligation under Section 14(c)(3) of ANCSA.

Section 5. Acquisition for the City by the Mayor.

Under the authority of Title _____, Chapter _____, Section _____ of the _____ Municipal Code, the Mayor is directed to act on behalf of the City in acquiring that real property described in Section 6 of this ordinance. Such acquisition shall constitute full satisfaction of the requirements of ANCSA Section 14(c)(3).

Section 6. Legal description of the lands being reconveyed.

Introduction	_____
First Reading	_____
Public hearing/2d reading	_____

ADOPTED by a duly constituted quorum of the Council of the City of _____, Alaska, this _____ day of _____, 20__

MAYOR

ATTEST:

CITY CLERK

VI. SAMPLE DOCUMENTS AND PROCEDURES FOR TEMPORARY AND CASUAL USES OF MUNICIPAL LANDS

Within the DCED model code ordinance are two optional provisions which deal with making municipal lands available for use without disposing of the land or interests in the land. These provisions were largely based on several provisions of the Fairbanks North Star Borough Code Ordinance #86-056 and on the Borough's special land use permitting system.

Following are excerpts from the Borough's Code Ordinance for temporary and casual use of borough lands. Also included is a "special land use application and permit" form and further general requirements involved with the special land use permit. The excerpt from the Borough's Code which deals with casual uses of land is included primarily because it specifies what is considered a "casual use" of the land. This list may be helpful to reference if a city wishes to develop a similar provision in their ordinance.

If further information is needed from the Fairbanks North Star Borough, contact: Director, Division of Land Management, Fairbanks North Star Borough (____-_____).

Excerpt from Ordinance No. 86-056; "An ordinance Relating to the Acquisition,
Management, and Sale of Land by the Borough";
Fairbanks North Star Borough

15.10.060 Temporary use of borough land. A. "Temporary use" means a use of borough land that is exclusive, but the use is not pursuant to an authorized lease, easement, extraction license, or commercial sale of borough, sand, gravel, or greenwood timber resources. Nonexclusive examples of a temporary use are the use of borough land for access to a firewood cutting area or a temporary construction easement.

B. A person who wishes to use borough land for a temporary use shall apply to the mayor for a temporary use license. The mayor may grant to the applicant a temporary use license. A temporary use license is non-transferable and is valid for a time period no greater than one year from the date of issue. If the mayor determines that the proposed use may substantially affect the surrounding area, then the mayor shall publish notice of the proposed use. The notice shall include a description of the proposed use, and notice of a two-week period during which public comment on the proposed use will be accepted by the mayor. If the mayor receives substantial public comment adverse to the proposed use, then before issuing the license the mayor shall hold a public hearing on the proposed use.

C. The applicant shall pay to the borough the temporary use license fee required by the fee schedule established by the mayor. The mayor may waive the license fee for a public agency.

D. If the mayor determines a temporary use may cause damage to the borough land, then the mayor shall require that the applicant post a bond with the borough to insure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed. The mayor shall not release the bond until the licensee has complied with all conditions of the license.

E. The mayor may inspect the borough land at any time to insure compliance with conditions of the license. The mayor may, for cause and without prior notice to the licensee, immediately revoke a temporary use license. A licensee whose temporary use license has been revoked shall, within the time specified in the license and if no time is specified, within seven days of the revocation of the license, remove from the borough land all improvements placed on the borough land pursuant to the temporary use.

F. The mayor shall not renew a temporary use license, but the mayor may reissue another license if the applicant has complied with the provisions of this section and the terms of the prior license.

FAIRBANKS NORTH STAR BOROUGH
DEPARTMENT OF LANDS
SPECIAL LAND USE APPLICATION AND PERMIT

Reference No. _____

1. APPLICANT

Name (Last) (First) (MI)

Street/P.O. Box City State Zip Phone

2. LAND LOCATION (Attach USGS map or sketch map at scale no smaller than 1"=1 mile showing area desired):

Township _____, Range _____, _____ Meridian, Section _____

Portion _____

Other Description _____

3. PROPOSED ACTIVITY (Attach additional sheets if necessary):

4. SPECIAL STIPULATIONS: (In addition to conditions on reverse side) (General Requirements) _____

5. DATE OF INTENDED USE (Not to exceed one year): From _____
to _____.

6. DATE OF APPLICATION: _____, 20____.

7. CONTACT PERSON, if other than applicant: Name _____

Address Telephone No. Position/Title

8. _____
SIGNATURE OF APPLICANT OR AUTHORIZED REPRESENTATIVE Title Date

9. APPLICATION IS Granted Denied Granted as Modified
By _____
Title Date

10. BOND IS REQUIRED _____ Yes (See attached bond) _____ No

11. SUPPLEMENTAL INFORMATION _____

General Requirements

1. This permit conveys no interest in borough land. This permit is nonrenewable, but may be reissued upon application by the permittee at the borough's discretion. The permit reissuance period may not exceed one year. This permit is revocable immediately, with cause. Revocation without cause is effective upon 30 days notice. Permittee shall be afforded 30 days within which to remove his possessions. This permit is not transferable. It is issued to authorized specific activities requested by the applicant and which are not included in the category of 'generally permitted uses.'

2. Existing valid uses shall not be prevented or restricted by permittee's use of borough land.

3. This land use permit is subject to the following provisions:

a. Existing roads and trails shall be used wherever possible. If off-road travel is allowed, activities employing wheeled or tracked vehicles shall be conducted so as to minimize surface disturbance;

b. All activities shall be conducted so as to minimize disturbance of drainage systems, changing course or character of waterbodies, seeps or marshes;

c. Users shall not harass or disturb fish or wildlife resources;

d. Trails and campsites shall be kept clean. All garbage and foreign debris shall be removed, buried or safely burned before leaving the area;

e. All due care shall be taken to prevent or suppress any fire in the permitted area. Uncontrolled fires shall be reported immediately;

f. All survey monuments, and accessories such as witness corners, reference monuments and bearing trees shall be protected. Any damaged or destroyed markers shall be re-established in accordance with accepted survey practices; and

g. Permittee agrees to indemnify, save and hold the Fairbanks North Star Borough, its agents and employees, harmless and defend each (at permittee's sole cost and expense) from and against any claim or liability for any injury to any person or damage to any property or any other claim or liability whatsoever arising or resulting from any activity conducted by permittee, permittee's agents, contractors, or employees, whether such activity is expressly authorized by this permit or not.

Excerpt from Ordinance No. 86-056; "An ordinance Relating to the Acquisition,
Management, and Sale of Land by the Borough";
Fairbanks North Star Borough

25.10.070 Casual use of borough land. "Casual" use means a use of borough land that is nonexclusive and involves only minimal disturbance to the land. Noninclusive examples of a casual use are hiking, backpacking, hunting, fishing, camping for less than fourteen days, picnicking, crosscountry skiing, snow machining; berry picking, brushing survey lines or trails where roots are not disturbed, livestock drives, and the use of all-terrain vehicles off an established road or right-of-way but on an existing trail.

B. The casual use of borough land does not require a license.

C. The casual use of borough land does not create an interest in borough land.

D. The mayor may close any and all borough land to casual use by issuing a written order that contains a finding that an emergency exists and a statement of the facts on which the finding is based. The mayor shall publish notice of the location of borough land that the mayor has closed to casual use.

VII. SAMPLE NON CODE ORDINANCES FOR SPECIFIC LAND DISPOSALS

A. Land Issues that may be Encountered and Settled Through Non-Code Land Disposal Ordinances

This section provides different situations where municipality may decide to dispose of municipal lands meet a public need. After each land situation described, a sample non-code ordinance follows.

Example #1: Settling claims of equitable interest on municipal lands.

In 1986, a city received, from the federal townsite trustee, deeds to lots in the federal townsite with a total area of 10 acres. A number of these lots (8) contained occupied houses on them on the date the city received the deeds. Legally, the city owns not only the lots but the improvements (houses) located on the lots as well.

In 1985, or before the city received deeds to these lots, the residents living on the lots had applied to the federal townsite trustee (the previous owner of the lots) for deeds. These residents were denied deeds to the lots since the federal townsite trustee could only issue deeds to individuals having improvements on the lots prior to the approved townsite survey date (in this example, a date in 1980). Since there was a need for land available for housing, the village council in 1981 had authorized these individuals to build on the lots even though the village council, not being the landowner, was not in a position to approve this action.

Now the city has received deeds to lots in the federal townsite including the eight lots that have houses on them. The residents living on these lots may be considered in trespass. However, since these individuals had previously received the village council's permission to build, it would appear that these individuals have some claim in the property which should be recognized in the interest of fairness or equity.

To settle this situation, the city council may elect to dispose of these eight lots to these individuals. In doing so, the council needs to first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city had adopted an ordinance similar to the DCRA model code ordinance that is in this notebook.

With a code ordinance in place, if the city council wishes to dispose of these lots to the individuals in question, the council needs to prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

- a finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;

- a finding that it is in the public interest to dispose of municipal property to settle these claims of equitable interest;

- the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value;

- other items including a legal description of the property, the method of disposal, and other procedures.

With the passage of the non-code ordinance, follow-up actions will depend on what is authorized by the ordinance. In this example (and as shown on the sample non-code ordinance), the city council decided to dispose of these lots at less than fair market value to settle claims of equitable interest. Also note that the sample non-code ordinance contains a provision that a reverter clause be included on the deed that is issued by the city. A city may not want to include such reverter clause in the deeds.

Note that when the city is determining the price of lots to be disposed of in this ordinance, the cost of recording the deed should be added to this cost. Also note that the ordinance requires that if lots are disposed of by metes and bounds descriptions, the lot owner will pay the survey costs of the lot.

(valid claim of equitable interest)

CITY OF _____, ALASKA

ORDINANCE # _____

AN ORDINANCE AUTHORIZING THE DISPOSAL OF CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF _____ that pursuant to Chapter _____ of the Municipal Code the City of _____ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

Section 1. Classification.

Section 2. Statement of ownership.

Section 3. Statement of finding of public purpose.

Section 4. Purpose of disposal.

Section 5. Determination of price.

Section 6. Qualification of applicants.

Section 7. Type of deed and restrictions on use.

Section 1. Classification. This is a non-code ordinance.

Section 2. Statement of ownership. The City of _____ has acquired by deed the following real property:

(Legal description of property).

Section 3. Statement of finding of public purpose. The City Council finds that it is in the best public interest to convey title to land to a person who, due to ownership of residential improvements thereon, has a valid claim of equitable interest in land as of the date the City of _____ received that land. The Council further finds that the lands to be disposed of to settle these claims are not required for public purposes.

Section 4. Purpose of disposal. The lands to be disposed of in this ordinance were received by the City of _____ after residential improvements had already been placed on the property, and are to be disposed of to settle valid claims of equitable interest.

Section 5. Determination of price. As the City of _____ obtained these lands at no cost, the Council has determined that the price of each parcel of land to be disposed of under this ordinance shall be _____. Surveyed lots shall be conveyed by lot and block number. Unsurveyed lots will be sold by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the lot owner.

Section 6. Qualification of applicants. Only those persons that own the residential improvements on the lots to be disposed of or have a current contract of sale with the _____ Housing Authority for the residential improvements on the lots to be disposed of are qualified to apply for those lots in this disposal. Any lot not applied for by the qualified person(s) shall become the property of the City of _____ along with the improvements thereon.

Section 7. Type of deed and restrictions on use. Title shall be conveyed by modified quitclaim deed containing a warranty clause that warrants the City of _____ has taken no action to alienate the property prior to this disposal, and will contain the condition subsequent that the lots shall be used only for residential purposes during _____ years following the date on the deed. Breach of this condition subsequent shall cause title to revert to the City of _____ at the City's option.

Introduction.	_____
First reading.	_____
Public hearing/second reading.	_____

ADOPTED by a duly constituted quorum of the Council of the City of _____, Alaska, this ____ day of _____, 20____.

MAYOR

ATTEST:

CITY CLERK

Example #2: Making municipal lands available for residential development.

In this case, a city would like to make some of its lands available to residents for locating housing. Since the city is not scheduled to receive a public housing project through the regional housing authority for some time, the city would like to simply make lots available to residents so that they can build their own houses. The city also wants to make the price of lots at less than fair market value so residents can afford the lots. The city received, at no cost, deeds to the majority of its lands from the federal townsite trustee, including approximately 20 acres of unsubdivided tracts. It is on these unsubdivided tracts that the city would like to make land available for housing.

Before the city council can consider a land disposal program, the council needs to first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city had adopted an ordinance similar to the DCED model code ordinance that is in this notebook.

With a code ordinance in place, the city council now must prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

- 1) a finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
- 2) a finding that it is in the public interest to dispose of municipal property to residents at less than fair market value for housing purposes. The ordinance must explain in the statement of findings why residents should be given preference, and why the land is being offered for less than fair market value. In the sample non-code ordinance that follows, it is stated that there is a severe shortage of land in the community that is available to residents for housing purposes. The ordinance further states that the city wishes to make the land available at prices residents can afford.

Later in the ordinance, it is indicated that the lands are being disposed of at less than fair market value. This has a direct relationship to the statement that the city is making lands available at prices residents can afford. This relationship could be further strengthened by discussion within the public record of what the average income level might be of community residents and/or how the city council determined the value of the lots to be disposed.

Also in the ordinance there is a qualification of applicants, or essentially a residency requirement provision. Also note the "prove up" requirements in the ordinance (e.g., applicants must build a house on the property within ____ years). Refer to Section II of the notebook for further discussion of the residency requirement topic.

There is a further requirement that applicants cannot own other land in the community. This ties back to the purpose of the ordinance to dispose of lands to residents for housing purposes. Since there is a severe shortage of lands available for housing purposes, the city does not want to dispose of lands to those who already own land which they could use to build a house. This type of provision wouldn't necessarily work in some communities. For example, if a city had a zoning ordinance which restricted a person from using any of his landholdings within the city for housing purposes, this person could claim the city is discriminating against him in this ordinance for not allowing him to apply for a city disposal lot for housing purposes. There may be other unforeseen circumstances which would serve to discriminate against someone. The city may, for their own protection, want to put some language in the ordinance which allows exceptions to a requirement in certain cases.

The above types of considerations point out the importance of each city to carefully review the language of any model ordinance and revise the wording to fit their unique circumstances. It is also important that a city consider obtaining legal review of its ordinances before adopting them.

3) the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value. In this example, the city decided to make the lots available at less than fair market value. Since the city council could not afford to hire a qualified appraiser, the council determined the fair market value of the lots based on comparing prices of similar lots in a nearby community;

4) a legal description (metes and bounds, pending, survey) of the property. Since the tracts the city wants to dispose of are unsubdivided, the city will need to plan the layout of the subdivision, clearly stake out the lots, and describe each lot by metes and bounds. In this instance, the applicants will pay the surveying costs (on a pro-rated basis). The city may also want to add into the cost of each lot the cost to record the deed.

Additional notes: As discussed earlier, Section 6 of the non-code ordinance establishes who is qualified to apply for the lots. Although a number of days was not placed in the blank on the sample ordinance, a 30-day residency requirement (State of Alaska voting residency requirements) could be considered. This section also restricts applicants to those who do not already own land in the community (see discussion above) and includes a requirement that applicants build and reside in a dwelling of _____ square feet within _____ years of this disposal. If these latter two conditions are not met, the title of the property reverts back to the city. Although the sample ordinance leaves these two performance periods as blanks, a city may want to consider a 3-5 year period for the building of a dwelling. The size requirement of a dwelling could vary widely depending on the community.

Section 7 of the non-code ordinance contains another performance requirement, i.e., the lot must be used for "residential purposes" during _____ years following the date on the deed. This period could vary widely per city.

Note that the non-code ordinance states that the city retains the option to enforce or not enforce the reverter clause. In other words, an individual could appeal and possibly be granted waiver from the reverter clause by the city council.

(To individuals for new housing)

CITY OF _____, ALASKA

ORDINANCE # _____

AN ORDINANCE AUTHORIZING THE DISPOSAL OF CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF _____ that pursuant to Chapter _____ of the Municipal Code the City of _____ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

Section 1. Classification.

Section 2. Statement of ownership.

Section 3. Statement of finding of public purpose.

Section 4. Purpose of disposal.

Section 5. Determination of price.

Section 6. Qualification of applicants.

Section 7. Type of deed and restrictions on use.

Section 1. Classification. This is a non-code ordinance.

Section 2. Statement of ownership. The City of _____ has acquired by deed the following real property:

(Legal description of property).

Section 3. Statement of finding of public interest. The Council finds that there is a severe shortage of land available for new housing for residents of the City of _____. The Council further finds that it is in the best public interest to make land available for new housing for City residents, at a price that the residents can afford. The Council further finds that the lands to be disposed of to residents for new residential housing are not required for other public purposes.

Section 4. Purpose in this ordinance residential purposes of disposal. The lands to be disposed of are to meet the demand for land for by the residents of _____.

Section 5. Determination of price. As the City of _____ obtained these lands at no cost, the Council has determined that the price of each lot to be disposed of under this ordinance shall be _____. Surveyed lots shall be conveyed by lot and block number. Unsurveyed lots will be sold by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the lot owner.

Section 6. Qualification. of applicants. Only those persons that were eligible to vote as residents of _____ as of [a date prior to this disposal. *The date the ordinance is proposed would be okay*] are qualified to apply for land under this ordinance. This disposal is further restricted to those _____ residents that do not presently own and in the City. If any lot shall have more than one applicant the recipient shall be selected by lottery. Successful applicants shall build and reside in a dwelling of at least _____ square feet within _____ years of this disposal, or title shall revert to the City of _____.

Section 7. Type of deed and restrictions on use. Title shall to conveyed by modified quitclaim deed containing a warranty clause that warrants the City of _____ has taken no action to alienate the property prior to this disposal, and will contain the condition subsequent that the lots shall be used only for residential purposes during _____ years following the date on the deed. Breach of this condition subsequent shall cause title to revert to the City of _____ at the City's option.

Introduction.	_____
First reading.	_____
Public hearing/second reading.	_____

ADOPTED by a duly constituted quorum of the Council of the City of _____, Alaska, this _____ day of _____, 20____.

MAYOR

ATTEST:

CITY CLERK

Example #3: Making municipal lands available to a regional housing authority for public housing purposes.

In this case, the municipality would like to dispose of certain municipal lands to the regional housing authority so that a public housing project can be constructed. The city has title to approximately 15 acres of unsubdivided land that was deeded to them from the federal townsite trustee. Since this public housing project will meet the current housing needs of the community, the city council is eager to get the land to the housing authority so that construction can begin.

Before the city council can deed city lands to the housing authority, the council needs to first have a code ordinance in place which gives them the ability to dispose of municipal property. In this case, the city had adopted an ordinance similar to the DCED model code ordinance that is in this notebook.

With a code ordinance in place, the city council now must prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

--a finding that the real property or interest in real property is no longer necessary for other public purposes and a statement of facts upon which such a finding is based;

--a finding that it is in the public interest to dispose of municipal property to the housing authority for the purpose of building a public housing project;

--the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value. In this example, the city decided to make the land available at less than fair market value. The price per lot as shown in the sample non-code ordinance is the cost of recording the deed (the owners of the lots or the housing authority will also pay the surveying costs);

--other items including a legal description (metes and bounds, pending survey) of the property, the method of disposal, and other procedures.

Once the non-code ordinance is passed, follow-up actions will be based on what the ordinance has authorized. One provision of the sample ordinance requires the housing authority to construct a public housing project only, or else the title of the land will revert back to the city.

(To the Housing Authority for public housing projects)

CITY OF _____, ALASKA

ORDINANCE # _____

AN ORDINANCE AUTHORIZING THE DISPOSAL OF CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF _____ that pursuant to Chapter _____ of the Municipal Code the City of _____ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

Section 1. Classification.

Section 2. Statement of ownership.

Section 3. Statement of finding of public purpose.

Section 4. Purpose of disposal.

Section 5. Determination of price.

Section 6. Qualification of applicants.

Section 7. Type of deed and restrictions on use.

Section 1. Classification. This is a non-code ordinance.

Section 2. Statement of ownership. The City of _____ has acquired by deed the following real property:

(Legal description of property).

Section 3. The Council finds that it is in the best public interest to convey land to the _____ Housing Authority for public housing projects. The Council further finds that the lands to be disposed of to the Housing Authority are not required for other public purposes.

Section 4. Purpose of disposal. The lands to be disposed of in this ordinance are to be used by the Housing Authority for the purpose of building public housing for qualified residents of the City of _____.

Section 5. Determination of price. As the City of _____ obtained these lots from the Townsite Trustee at no cost, the Council has determined that the land necessary for this project shall be conveyed for [_____ + the cost of recording the deed]. Surveyed lots will be conveyed by lot and block number. Unsurveyed lots will be conveyed by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the lot owner.

Section 6. Qualification of applicant. Only the _____ Housing Authority is qualified to receive the lots that are lots to be disposed of in this disposal. All lots conveyed to the Housing Authority by this ordinance shall be used for existing or planned housing for the residents of the City of _____.

Section 7. Type of deed and restrictions on use. Title shall be conveyed by modified quitclaim deed containing a warranty clause that warrants the City of _____ has taken no action to alienate the property prior to this disposal, and will contain the condition subsequent that the lots shall be used only for the construction of public housing during _____ years following the date on the deed. Breach of this condition subsequent shall cause title to revert to the City of _____ at the City's option.

Introduction.	_____
First reading.	_____
Public hearing/second reading.	_____

ADOPTED by a duly constituted quorum of the Council of the City of _____, Alaska, this _____ day of _____, 20____.

MAYOR

ATTEST:

CITY CLERK

(Authorizing a leasing of a city-owned lot to a Public agency)

CITY OF _____, ALASKA

ORDINANCE # _____

AN ORDINANCE AUTHORIZING THE DISPOSAL OF AN INTEREST IN CERTAIN
CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF _____ that pursuant to Chapter _____ of the Municipal Code the City of _____ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

Section 1. Classification.

Section 2. Statement of ownership.

Section 3. Statement of finding of public purpose.

Section 4. Purpose of disposal.

Section 5. Determination of price.

Section 6. Qualification of applicants.

Section 7. Type of deed and restrictions on use.

Section 1. Classification. This is a non-code ordinance.

Section 2. Statement of ownership. The City of _____ has acquired by deed the following real property:

(Legal description of property).

Section 3. The Council finds that it is in the best public interest to lease land to the _____ for a _____. The Council further finds that the land to be leased to the _____ is not required for other public purposes.

Section 4. Purpose of disposal. The land to be leased by this ordinance is to be used by the _____ for the purpose of constructing and operating a public _____ which will serve all residents of the City of _____.

Section 5. Determination of price. As the City of _____ obtained this lot from the Townsite trustee at no cost, the Council has determined that the lease of the land necessary for this project shall be issued for [the cost of recording the lease document] and for an annual rent to be determined through negotiation between the City and the lessee.

Section 6. Qualification of applicant. Only the _____ is qualified to receive a lease to the lot that is to be disposed of in this disposal.

Section 7. Type of lease and restrictions on use. The term of the lease to be granted to _____ shall be ____ years. Additional terms and conditions of this lease will be specified in the lease contract which will be executed by the City and the _____. The Mayor is authorized to sign the lease contract on behalf of the City.

Introduction.	_____
First reading.	_____
Public hearing/second reading.	_____

ADOPTED by a duly constituted quorum of the Council of the City of _____, Alaska, this ____ day of _____, 20____.

MAYOR

ATTEST:

CITY CLERK

Example #4: Leasing a City-owned lot to a public agency for the construction of a public building.

In this instance, the city has been approached by a public agency (e.g., U.S. Public Health Service, regional health corporation, etc.) that needs land to build a public building. The city has some vacant lots (that were deeded to the city from the federal townsite trustee) that would be suitable for such a building. Although the public agency wants to obtain a deed to the land, the city Council prefers to dispose of an interest in the land by long term lease.

As with disposing of title to land, before the city council can dispose of an interest in the land, the council must first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city had adopted an ordinance similar to the DCED model code ordinance that is in this notebook.

With a code ordinance in place, the city council now must prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

- a finding that the real property or interest in real property is no longer necessary for other public purposes and a statement of facts upon which such a finding is based;

- a finding that it is in the public interest to dispose of this interest in property (a lease) to a public agency for construction of a public building;

- the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value. In this example, the city decided to lease the land, therefore the lessee is not purchasing full title to the land, only a right to use the land for an extended period of time. In this case, the city decided to charge the lessee the cost to record the lease contract document and also charge the lessee a minimal cost per year for rent of the land;

- other items including a legal description (metes and bounds, pending survey) of the property, the method of disposal, and other procedures.

With the passage of the non-code ordinance authorizing the lease of the lot, the City can proceed ahead with the negotiation of a lease with the public agency for the land. A sample lease is located in Section VIII of this notebook.

Example #5: Authorizing an easement agreement across municipal lands for location of utility lines.

In this case, a utility company needs to extend some utility lines across City land. In order to put in the lines the utility company needs to have site control so that they can not only construct the lines, but operate and maintain them as needed. The City could possibly dispose of title to a strip of land containing the utility lines but chose instead to dispose of an interest in the land, an easement, to the utility company so that the City will retain the title to the land.

The land across which the utility company wants to extend the lines is a tract of land the City received from the federal townsite trustee. The legal description for the utility corridor will need to be done by metes and bounds until a survey can be obtained. The city council wants the utility company to pay for the survey whenever there is a need for a survey to be done for the utility corridor.

As with disposing of title to land, before the City Council can dispose of an interest in the land, the Council must first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city had adopted an ordinance similar to the DCED model code ordinance that is in this notebook.

With a code ordinance in place, the city council now must prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

--a finding that the real property or interest in real property is no longer necessary for other public Purposes and a statement of facts upon which such a finding is based;

--a finding that it is in the public interest to dispose of this interest in property (an easement) to a utility company for construction, operations, and maintenance of utility lines;

--the value of the property and a determination, of whether or not the property should be disposed of at its value or less than fair market value. In this example, the city decided to dispose of only an interest in property, therefore the utility company is not receiving full title to the land, only a right to use the land for an extended period of time. In this case, the City decided to charge the utility company only the cost to record the easement agreement documents. In addition, any future survey costs, if a survey is needed (for any purpose) for the utility corridor, will also be borne by the utility company;

--other items including a legal description (metes and bounds, pending survey) of the property, the method of disposal, and other procedures.

With the passage of the non-code ordinance authorizing the disposal of interest in the land by easement, the City can proceed with the preparation of an easement agreement.

(To a utility for a utility line easement)

CITY OF _____, ALASKA

ORDINANCE #__

AN ORDINANCE AUTHORIZING THE DISPOSAL
OF AN INTEREST IN CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF _____ that pursuant to Chapter _____ of the Municipal Code the City of _____ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

Section 1. Classification.

Section 2. Statement of ownership.

Section 3. Statement of finding of public purpose.

Section 4. Purpose of disposal.

Section 5. Determination of price.

Section 6. Qualification of applicants.

Section 7. Type of deed and restrictions on use.

Section 1. Classification. This is a non-code ordinance.

Section 2. Statement of ownership. The City of _____ has acquired by deed the following real property:

(Legal description of property).

Section 3. Statement of finding of public purpose. The Council finds that it is in the best public interest to convey an easement in land to the _____ for the construction, operation, and maintenance of _____ utility lines serving residents of the City. The Council further finds that the lands affected by this easement to the _____ are not required for other public purposes.

Section 4. Purpose of disposal. The easement to be conveyed by this ordinance is to be used by the _____ for the purpose of constructing, operating, and maintaining _____ lines which will serve residents of the City.

Section 5. Determination of price. As the City of _____ obtained the land from the Townsite Trustee at no cost, the Council has determined that the easement necessary for this project shall be conveyed for [the cost of recording the easement agreement document]. The easement will be conveyed by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the _____.

Section 6. Easement agreement and restrictions on use. The easement agreement will contain a clause that states that if abandonment or nonuse of the property occurs for any six consecutive months, the easement shall be vacated at the option of the city, and all interests in the property that have been granted shall revert to the City, or its successor, upon such abandonment.

Introduction.	_____
First reading.	_____
Public hearing/second reading.	_____

ADOPTED by a duly constituted quorum of the Council of .the City of _____, Alaska, this ____ day of _____, 20____.

MAYOR

ATTEST:

CITY CLERK

VIII. SAMPLE LAND DOCUMENTS

This section contains sample land documents (deeds, leases, and an easement agreement) that could be used to convey land or an interest in land. Note that following the first sample quitclaim deed, the following sample documents correspond to and could be used as a follow-up to the non-code ordinances given for examples #1-#5 in Section VII of the notebook.

Following are descriptions of the land documents contained in this section:

Quitclaim deed: This deed conveys whatever title a party has (if any) in real property to another party.

Modified quitclaim deed: This type of quitclaim deed guarantees that the party making the deed has not taken any action to alienate (conveying some of the rights of the property to other parties) that real property which is the subject of the deed.

Lease contract: A lease is used to dispose of an interest in real property without transferring ownership of that property.

Easement agreement: An easement allows passage across real property without granting any other ownership rights in that property.

QUITCLAIM DEED

THE GRANTOR, City of _____, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance _____ approved by the City council on _____, 20____, for the sum of _____ and other Valuable consideration, conveys and quitclaims to _____, all interest Which it has, if any, in the following described property:

Date:

CITY OF _____

Mayor

STATE OF ALASKA)
)ss
_____Judicial District.)

THIS IS TO CERTIFY that on this the ____day of _____ 20____ before me the undersigned a Notary Public for the State of Alaska personally appeared _____ known to me to be the Mayor for the City of _____, and executed the foregoing document upon acknowledging That his act was duly authorized by ordinance of the City Council For the City of _____.

WITNESS my hand and official seal this ____day of _____ 20 ____ at _____, Alaska.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

(This sample deed was designed to be used with Example #1 from Section VII of this notebook; or the disposal of municipal lands to settle claims of equitable interest.)

MODIFIED QUITCLAIM DEED

THE GRANTOR, City of _____, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance _____ approved by the City Council on _____, 20 ____, for the sum of _____ and other valuable consideration, conveys and quitclaims to the GRANTEE, _____ all interest which it has in the following described property:

THE GRANTOR warrants that is has taken no action to alienate the property described herein prior to this conveyance.

In the event the property described herein is not used for residential purposes for a period of _____ years following the date on this deed, the title to this property and the improvements thereon shall revert to the City of _____ at the City's option.

Dated: CITY OF _____

Mayor

STATE OF ALASKA)
)ss
____ Judicial District.)

THIS IS TO CERTIFY that on this the ____ day of _____ 20____ before me the undersigned a Notary Public for the State of Alaska personally appeared _____ known to me to be the Mayor for the City of _____, and executed the foregoing document upon acknowledging That his act was duly authorized by ordinance of the City Council For the City of _____.

WITNESS my hand and official seal this ____ day of _____ 20 ____ at _____, Alaska.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

(This sample deed was designed to be used with Example #2 from Section VII of this notebook, or disposal of municipal land for residential development.)

MODIFIED QUITCLAIM DEED

THE GRANTOR, City of _____, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance _____ approved by the City Council on _____, 20____, for the sum of _____ and other valuable consideration, conveys and quitclaims to the GRANTEE, _____ all interest which it ha in the following described property:

In the event the property described herein is not used for residential purposes for a period of _____ years following the date on this deed, the title to this property and the improvements thereon shall revert to the City of _____ at the City's option.

The GRANTEE shall build, within _____ years of the date of this deed, a dwelling of at least _____ square feet upon the real property described herein. Furthermore, the GRANTEE shall also live within this dwelling. If these conditions are not met, the title to this property and the improvements thereon shall revert to the City of _____.

Dated: CITY OF _____

Mayor

STATE OF ALASKA)
)ss
_____Judicial District.)

THIS IS TO CERTIFY that on this the _____ day of _____ 20____ before me the undersigned a Notary Public for the State of Alaska personally appeared _____ known to me to be the Mayor for the City of _____, and executed the foregoing document upon acknowledging That his act was duly authorized by ordinance of the City Council For the City of _____.

WITNESS my hand and official seal this _____ day of _____ 20 ____ at _____, Alaska.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

(This sample deed was designed to be used with Example #3 from Section VII of this notebook, or disposal of municipal land to a housing authority for a public housing project.)

MODIFIED QUITCLAIM DEED

THE GRANTOR, City of _____, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance _____ approved by the City Council on _____, 20____, for the sum of _____ and other valuable consideration, conveys and quitclaims to the GRANTEE, _____ all interest which it ha in the following described property:

The GRANTEE warrants that it has taken no action to alienate the property described herein prior to this conveyance.

In the event the property described herein is not used for public housing purposes for a period of _____ years following the date on this deed, the title to this property and the improvements thereon shall revert to the City of _____ at the City's option.

Dated: _____ CITY OF _____

Mayor

STATE OF ALASKA)
)ss
_____Judicial District.)

THIS IS TO CERTIFY that on this the ____day of _____ 20____ before me the undersigned a Notary Public for the State of Alaska personally appeared _____ known to me to be the Mayor for the City of _____, and executed the foregoing document upon acknowledging That his act was duly authorized by ordinance of the City Council For the City of _____.

WITNESS my hand and official seal this ____day of _____ 20 ____ at _____, Alaska.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

SAMPLE LEASE DOCUMENT

LEASE CONTRACT

THIS lease, made this _____ day of _____, 20____ by and between the City of _____, a municipal corporation, hereinafter referred to as "City" and _____, herein called "Lessee".

City for and in consideration of the rent specified to be paid by Lessee, and the covenants and agreements made by the Lessee, hereby leases the following described property:

To have and to hold unto said Lessee on the following terms and conditions:

1. Term: The terms of this lease shall be _____ years beginning on the _____ day of _____, 20____, and ending on the _____ day of _____, 20____, except as otherwise provided herein.

2. Rental: Lessee agrees to pay City as rent for the above described property the sum of _____ dollars (\$_____) upon execution of this lease, and _____ dollars (\$_____) on the _____ day of each and every month until the termination of this lease, without delay, deduction or default.

3. Purposes: Said property shall be used for _____ and for no other purpose whatsoever without the written consent of City.

4. Buildings and Improvement: Lessee may, at Lessee's sole cost and expense, make such changes, alterations or improvements (including the construction of buildings) as may be necessary to fit said premises for such use, and all buildings, fixtures and improvements of every kind or nature whatever installed by Lessee, shall remain the property of Lessee, who may remove the same upon the termination of the lease, provided, that such removal shall be done in such a manner as not to injure or damage the property; and provided further that should lessee fail to remove said buildings, fixtures or

improvements as above provided, City at its option may require Lessee to remove the same. In the event that said Lessee shall fail to remove said buildings, fixtures and improvements after receipt to notice from City, City may remove the same and dispose of the same as it sees fit, and Lessee agrees to sell, assign, transfer and set over to City all of Lessee's right, title and interest in and to said buildings, fixtures, improvements and any personal property not removed by Lessee, for the sum of one dollar (\$1.00) Lessee further agrees that should City remove said buildings, fixtures and improvements as above provided, that Lessee will pay City upon demand, the cost of such removal, plus the cost of transportation and disposition thereof.

5. Taxes: Lessee shall pay any taxes and assessments upon personal property, buildings, fixtures and improvements belonging to Lessee and located upon the property, and all leasehold and possessory interest, taxes levied or assessed by any property taxing authority.

6. Repairs and Maintenance: Lessee represents that Lessee has inspected and examined the property and accepts the property in its present conditions and agrees that City shall not be required to make any improvements or repairs whatsoever in or upon the property or any part thereof; Lessee agrees to make any and all improvements and repairs at Lessee's sole cost and expense, and agrees to keep said properties safe and in good order and condition at all times during the term hereof, and upon expiration of this lease, or any earlier termination thereof, the Lessee will quit and surrender possession of said premise as quietly and peaceably and in good order and condition as the same was at the commencement of this lease, reasonable wear, tear and damage by the elements excepted; Lessee further agrees to lease the property, free from all nuisance and dangerous and defective conditions.

7. Assignment and Mortgage: Neither the property nor any portion thereof shall be sublet, nor shall this lease, or any interest therein, be assigned, or mortgaged by Lessee, and any attempted assignment, subletting, or mortgaging shall be of no force or effect, and shall confer no rights upon any assignee, sublessee, mortgagee or pledgee.

In the event that Lessee shall become incompetent, bankrupt, or insolent, or should a guardian, trustee, or receiver be appointed to administer Lessee's business or affairs, neither this lease nor any interest herein shall become an asset of such guardian, trustee or receiver, and in the event of the appointment of any such guardian, trustee, or receiver this lease shall immediately terminate and end.

8. Liability: Lessee shall save City harmless from any loss, cost or damage that may arise out of or in connection with this lease or the use of the property by Lessee, or his agents, or employees, or any other person using the property; Lessee agrees to deliver to City upon the execution of this lease, two executed copies of a continuing public liability and property damage insurance policy, satisfactory to City, imdenifying and holding City harmless against any and all claims, in the amount of _____ dollars (\$_____) for injury to anyone person, and _____ dollars (\$_____) for property damage, and shall keep the same in force during the term of this lease;

10. Mechanics Liens: Lessee agrees that at least five (5) days before any construction work, labor or materials are done, used or expended by Lessee or on Lessee's behalf by any person, firm or corporation by any contractor, that Lessee will post and record, or cause to be posted and recorded as provided by law a notice of non-responsibility on behalf of City, giving notice that City is not responsible for any work, labor or materials used or expended or to be used or expended on the property.

11. Termination by City: City may terminate this lease at any time if it should be determined by its City Council that public necessity and convenience requires it to do so, by serving upon Lessee in the manner herein provided a written notice of its election to so terminate, which notice shall be served at least _____ (____) days prior to the date in said notice for such termination.

12. Default: In the event that Lessee shall be in default of any rent or in the performance of any of the terms or conditions herein agreed to be kept and performed by Lessee, then in that event, City may terminate and end this lease, forthwith, and City may enter upon said premises and remove all persons and property therefrom, and Lessee shall not be entitled to any money paid hereunder or any part thereof; in the event City

shall bring a legal action to enforce any of the terms hereof or to obtain possession of the property by reason of any default of Lessee, or otherwise, Lessee agrees to pay City all costs of such action, including attorney's fees plus the sum of _____ dollars (\$_____).

13. Holding Over: In the event that Lessee shall hold over and remain in possession of the property with the written consent of the City Council such holding over shall be deemed to be from month to month only, and upon all of the same rents, terms, covenants and conditions as contained herein.

14. Notices: Any notices which are required hereunder or which either City or Lessee may desire to service upon the other, shall be writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage prepaid, return receipt requested, addressed to Lessee at _____ or addressed to City at _____, _____AK _____ attention Mayor.

15. Advance Rental: City acknowledges receipt of the sum of _____ dollars (\$_____), which shall be credited by City to the last months installment of rent to become due hereunder.

16. Waiver: Waiver by City of any default in performance by Lessee of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

17. Compliance With Laws: Lessee agrees to comply with all laws, ordinances, rules and regulations which may pertain or apply to the property or the use thereof.

18. City May Enter: Lessee agrees that City, its agents or employees, may enter upon the property at any time during the term or any extension hereof for the purposes of inspection, digging test holes, making surveys, taking measurements, and doing similar work necessary for the preparation of plans for the construction of buildings or improvements on said premises, with the understanding that said work will be performed in such a manner as to cause minimal interference with the use of the property by Lessee.

19. Successors In Interest: All of the terms, covenants and conditions contained herein shall continue, and bind all successors in interest of Lessee herein.

20. Authority: This lease is entered into by the City pursuant to authority granted by Ordinance _____ passed and approved by the City Council of _____ on _____.

Dated: _____

Dated: _____

CITY OF

LESSEE:

Mayor

ADDRESS:

STATE OF ALASKA)
)ss
_____ Judicial District.)

On this _____ day of _____ 20____, before me the undersigned Notary Public, Personally appeared _____ know to be to be the individual described in and who executed the foregoing instruments for the CITY OF _____ as Mayor, and acknowledged to me that s/he understood the contents of the instrument, was duly authorized to sign the instrument and did sign the instrument as a free and voluntary act for the uses and purposes therein described.

WITNESS my hand and official seal this _____ day of _____ 20 ____
at _____, Alaska.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

STATE OF ALASKA)
)ss
_____Judicial District.)

On this _____ day of _____ 20____, before me the undersigned Notary Public, Personally appeared _____ know to be to be the individual described in and who executed the foregoing instruments for the CITY OF _____ as Mayor, and acknowledged to me that s/he understood the contents of the instrument, was duly authorized to sign the instrument and did sign the instrument as a free and voluntary act for the uses and purposes therein described.

WITNESS my hand and official seal this _____day of _____ 20 ____
at _____, Alaska.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this _____ day of _____, 20____, by and between the City of _____, (hereinafter called "Grantor"), and _____, (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantee desires the use of the property of Grantor for use as an Easement including the right to construct, operate and maintain

_____; and
WHEREAS, in consideration of _____ (\$.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor is willing to enter into an easement agreement for the use of the property subject to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Grantor hereby grants Grantee an easement to use the following described property:

(See attached property plan Appendix A)

The legal description may change to conform to a survey or surveys.

2. This Easement Agreement grants the right to construct, operate and maintain a _____ (hereinafter "Improvements") within the above described property. Grantee agrees to assume sole responsibility for the construction, operation and maintenance of said Improvements within the property. Grantee agrees to repair any damage to Grantor's property or improvements occurring from Grantee's construction, operation or maintenance of said Improvements.
3. Only such rights are granted hereby as are necessary for construction, operation and maintenance of the Improvements. Grantor reserves the right to use the property in any manner and for any purpose not inconsistent with the aforesaid purpose and to relocate the Improvements at its sole cost and expense, if further development warrants such action.
4. Grantee agrees to defend, indemnify and hold harmless Grantor, its officers, agents and employees, from and against all claims, demands, judgements, costs and expenses (including reasonable attorney's fees) which may arise by reason of injury to any person or damage to any property attributable to the negligence of Grantee, Grantee's officers, agents and employees, in connection with Grantee's

construction, operation and maintenance of said Improvements and its use of or presence on the property.

5. This Easement Agreement shall automatically cease upon abandonment, herein defined as nonuse for any six (6) consecutive months, and all interests granted herein shall revert to grantor, or its successor, upon such abandonment.
6. All notices referred to in the Easement Agreement shall be sent to the respective parties at the address stated below:

GRANTEE

GRANTOR

City of

7. The rights granted to and duties assumed by Grantee under this Easement Agreement may not be assigned or delegated by Grantee without the prior written consent of Grantor. Any attempted assignment or delegation by Grantee without the prior written consent of the Grantor shall be void.
8. This Easement Agreement may be amended from time to time, as may be necessary, by mutual consent of both parties; provided, however, that no amendment to the Easement Agreement shall be effective unless in writing and signed by both parties.
9. Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.
10. Both parties represent and warrant that they have the authority to execute this Easement Agreement.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement to be effective on the day and year first above written.

GRANTEE

GRANTOR

Mayor

Date: _____

Date: _____

Attachment

Appendix A: Property Plan

ACKNOWLEDGEMENT

STATE OF _____)
)ss
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 20____, before me, the undersigned Notary Public, in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to me to be the Mayor for the City of _____, and who acknowledged to me that he executed the within Easement Agreement upon acknowledging that his act was duly authorized by ordinance of the City Council for the City of _____.

Notary Public (or U.S.
Postmaster) in and for the
State of Alaska

My Commission expires: _____

IX. SAMPLE ORDINANCES AND FOLLOW-UP PROCEDURES FOR COMPETITIVE LAND DISPOSALS

This section contains sample ordinances and procedures for each of the three competitive types of disposals (lottery, sealed bid, and outcry auction) that are outlined within the model code ordinance of section III.

Following are notes regarding each of the materials that are included within this section.

1) Land Disposal by Lottery, Bristol Bay Borough (1983)

In this sample, the Bristol Bay Borough had received land from the State of Alaska. The Borough then subdivided the land and desired to dispose of the lots by lottery. To do this, the Borough outlined the purpose and detailed procedures of the lottery within the Borough's Code of Ordinances. This ordinance (codified) and a brochure regarding the disposal is included in this section.

Note that the Borough did not first pass a code ordinance outlining general authority and procedures for land acquisition and disposal before going ahead with a non-code ordinance for the specific disposal. The Borough instead chose to include everything about this specific disposal in their codified ordinance.

2) Land Disposal by Sealed Bid, Fairbanks North Star Borough (1987)

This example includes: A non-code ordinance which authorizes the disposal of specific lands by sealed bid; an internal Borough memorandum which outlines detailed procedures for conducting the sealed bid auction; and a sale brochure which provides information about the various lands being disposed of and sealed bid procedures.

There are a couple of items to note about these materials. First, the non-code ordinance doesn't contain a finding that these lands are no longer necessary for municipal purposes or a description of the value of the property to be disposed (this second item is contained in the sale brochure). If the DCBD model code ordinance is used, note that these two items are required to be included in the non-code ordinance for specific disposal. Secondly, the sale brochure has a section regarding disclaimer clauses (page 6) and other required reading for participants (e.g., site inspection, utilities, trails and easements, etc.) on page 8-11.

This information should be a useful guide for other municipalities who wish to dispose of lands by sealed bid auction.

3) Land Disposal by Outcry Auction, City of Petersburg (1983)

The city of Petersburg has a provision in their code ordinance (excerpt with provision is included in this section) which authorizes disposal of city lands by auction. To begin this process, city staff recommend to the city council which lands can be disposed of. These recommendations are presented to the council for their consideration. If the council authorizes the disposal by motion, notice of the lands to be auctioned and other auction procedures are published. After the auction takes place, the city council passes a special ordinance which authorizes the sale of various lots which were offered at the auction.

Included in this sample is a copy of the code ordinance provision authorizing disposal of lands by auction, a copy of the staff memo recommending the lands to be disposed of, the notice containing the auction procedures, and the non-code ordinance authorizing the sale of auctioned lands.



Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

ORDINANCE NO. 83-11

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

AN ORDINANCE PROVIDING FOR THE DISPOSAL OF LAND BY LOTTERY AND SETTING FORTH THE SALE PROCEDURES, DISCOUNT PROGRAM, RESIDENCE REQUIREMENTS, FILING FEES, OVER-THE-COUNTER SALES.

WHEREAS, the Bristol Bay Borough has pursuant to A.S. 29.18.201 received a patent from the State of Alaska to land located within the Borough as the Borough's general grant land entitlement, and

WHEREAS, a portion of the land described as Naknek River Subdivision has been subdivided into 108 lots, and

WHEREAS, the Bristol Bay Borough desires to make available to qualified persons the opportunity by lottery to purchase lots located within the Naknek River Subdivision, and

WHEREAS, the Borough desires to encourage persons to acquire residential property and to construct single and multi-family residences thereon and to encourage person to reside in the Borough, and

WHEREAS, The offering of said lots for sale by lottery will make improved residential land available for said purposes, and

WHEREAS, the cost of conducting the lottery should be defrayed by charging an application fee.

BE IT ORDAINED BY THE ASSEMBLY OF THE BRISTOL BAY BOROUGH, ALASKA

Section 1. Ordinance Nos. 81-10, 83-2 are hereby repealed.

Section 2. There is hereby added to the municipal code of the Bristol Bay borough chapter 18.08, which is to read as follows.

ORD. NO. 83-11

PAGE TWO

18.08.010 Disposal of land by lottery. The Bristol Bay Borough may dispose of the following-described real property by lottery: Naknek River Subdivision, consisting of 108 lots, located in the Kvichak Recording District, Third Judicial District, State of Alaska.

18.08.020 Purchase price. The purchase price of each lot shall be the Bristol Bay Borough's assessed valuation therefor as determined by the Borough Assessor, plus closing costs.

18.08.020 Qualifications to participate in lottery.

(a) To qualify to participate in the lottery, an applicant shall:

- (1) at the time of application be an individual having attained the age of eighteen (18) years;
- (2) be a resident of the State of Alaska for thirty (30) day immediately preceding the lottery;
- (3) not be a corporation, partnership or joint venture;
- (4) pay a non-refundable application fee of TEN DOLLARS (\$10) for each application, up to a maximum of fifteen (15) applications, but may file no more than on (1) application per lot; and
- (5) certify that the applicant is qualified under the provisions of this section.

(b) If an applicant files more than fifteen applications, then all applications by said applicant shall be null and void, and the applicant shall not be entitled to purchase a lot by lottery.

(c) Employees of the Bristol Bay Borough, members of the Assembly and their families, if otherwise qualified, are eligible to participate in the lottery.

18.08.40 Lottery procedures.

(a) The Borough Manager shall accept applications to purchase particular lots upon the following procedures and conditions:

ORD. NO. 83-11 (1) The application period may not be less than thirty (30) days.

PAGE THREE

- (2) No application may be accepted less than fifteen (15) days before the lottery.
- (3) Notice of the application period and the date of the lottery shall be given by posting notice in three (3) places within the Borough. Such notices shall be posted not fewer than forty-five (45) days prior to the date of the lottery.
- (4) The application shall be made on a form provided by the Borough.
- (5) The Assembly shall determine the number of and which lots to be included in the lottery.

(b) If only one application for a lot is received, the Borough Manager shall offer the lot to the applicant who applied for the lot, if the applicant is qualified to participate in the lottery. If more than one application is received for a lot, the applicant who is entitled to purchase the lot shall be determined by lottery. If the Borough Manager does not receive an application for a lot included in the lottery, or if the purchase fails to sign a contract of sale, the lot may be disposed of under the terms of section 18.08.060.

(c) The lottery shall be conducted in public by the Borough Auditors or their representative.

(d) An aggrieved lottery participant may appeal to the Bristol Bay Borough Assembly within ten (10) days after the lottery is conducted for a review of the lottery procedures. The decision of the Assembly is final.

18.08.050 Terms of Sale. The terms of sale are follows:

(a) Five percent (5%) of the purchase price to be paid at closing;

(b) The balance shall be evidenced by a promissory note secured by a Deed of Trust in the lot, to be paid in equal monthly quarterly or annual installments over a period of not more than twenty (20) years, including interest at the rate of six points below National Bank of Alaska's prime rate (and published as such at the date notice of the lottery is posted; provided that in any event the interest rate shall be not less than five percent (5%) nor higher than ten percent (10%)).

PAGE FOUR

18.08.060 Over-the-counter sales. Lots which are offered by lottery and are not awarded during or prior to the lottery or which have been relinquished will be available over the counter to persons qualified to have participated in the immediately preceding lottery under the same terms and conditions as for lots purchased at lottery. The over-the-counter sales will be available at the Borough Office on a first-come, first serve basis from 8:30 a.m. to 4:00 p.m. on the thirtieth (30th) business day after the lottery and for a period of three (3) months thereafter.

18.08.70 Relinquishment. Successful applicants shall give notice in writing to the Borough Manager of their relinquishment of their right to purchase, the notice to be received prior to the purchaser's executing the sale documents.

A person who so relinquishes becomes eligible to apply for another lot over the counter or in a subsequent lottery. A person who relinquishes or defaults after execution of the sale documents is not eligible to obtain another lot from the Bristol Bay Borough.

18.08.80 Limitations/restraints.

(a) No person may by lottery or over the counter acquire more than one (1) lot in Naknek River Subdivision.

(b) No lot may be sold, transferred or conveyed for a period of ten (10) years after the date of sale and such sale, transfer or conveyance shall be void except as follows:

- (1) by devise or descent:
- (2) by a bona fide foreclosure (in which event the restraint on alienation shall become void as to said lot):
- (3) between immediate family defined as first degree of kinship;
- (4) if the lot is free and clear of any balance of the purchase price or lien due the Borough.

(c) A purchaser shall not be or become ineligible to acquire a lot by lottery over the counter if the purchaser shall become an owner of another lot pursuant to subsection (b).

18.08.090 No warranty implied. By selling land the Bristol Bay Borough does not give nor imply any warranty as to the land's fitness, use, or suitability, or whether public utilities or service will be provided. It shall be the responsibility of the applicant/purchaser to determine whether the land will meet his needs.

18.08.100 Title search. Prior to the lottery, the Borough Manager shall obtain a title report for the property from a land title company.

18.08.110 Lottery drawing order. The order of drawing will be determined by the number of applications received, with the drawing for one lot which the most applications are received being held first. Each lot will be awarded to the first qualified applicant whose name is drawn, and who has not yet been awarded a lot. Once an applicant has been awarded a lot, all other applications by that person shall be disregarded. Successful applicants may trade their awarded lots with other successful applicant for a period of fourteen (14) days immediately following the lottery drawing.

18.08.120 Lottery cancellation. The Borough Manager any cancel, postpone or delay any lottery.

18.08.130 Discount for construction – after occupied for one (1) year. A purchaser shall be eligible for a discount equal to thirty percent (30%) of the purchase price if within five (5) years of the date of sale (defined as the date of the deed) the purchaser, or his successors in interest (as permitted by 18.08.080(b)), complete to Bristol Bay Borough requirements and Naknek River Subdivision covenants, conditions and restrictions, a single or multi-family residence of at least 1,000 square feet of living space (excluding garage) on the lot and thereafter reside in the residence for one (1) continuous year. The discount shall be applied or paid, if at all, to the record owner at the time the discount is applied for unless the application is rejected. The discount will not be allowed unless the purchaser shall make application for the discount after completion of the resident and continuous occupancy of the residence for a minimum of one (1) year, and not later than six (6) years after the date of sale. If the discount is allowed, it shall be applied as follows:

(a) The amount of the discount shall be deducted from the remaining principal balance of the promissory note. Remaining periodic payments are not excused.

(b) If the discount or any portion there of exceeds the remaining principal balance of the promissory note, the discount or excessive portion thereof shall be refunded to the purchaser.

(c) If a purchaser does not timely apply for the discount, the discount is waived.

ORD. NO. 83-11

PAGE SIX

18.08.140 Excused periods of absence for discount. The following are excused periods of absence under section 18.08.130 in determining the one (1) year continuous occupancy after construction of the residence;

- (a) military service;
- (b) college or trade school;
- (c) medical illness not to exceed 180 days;
- (d) other absence from the residence for a period not to exceed 90 days;

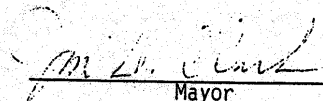
If a purchaser does not timely apply for a discount, the discount is waived.

18.08.150 Severability Any provision of this chapter determined to be invalid, void or illegal shall in no way affect, impair nor invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

Introduction and First Reading August 18, 1983.

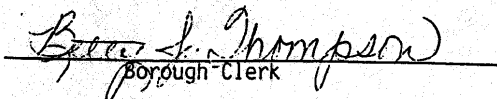
Public Hearing and Second Reading September 19, 1983.

Adopted by the Assembly of the Bristol Bay Borough,
Alaska, this 19th day of September, 1983.



Mayor

ATTEST:



Borough Clerk

QUESTIONS AND ANSWERS

- Q. Can more than one member of a family submit an application for a lot?
- A. Yes, providing each member meets the basic requirements, and is at least 18 years old.
- Q. What happens if my name is not chosen?
- A. You have the opportunity to purchase unselected lots over the counter after the lottery.
- Q. How do I qualify for discounts?
- A. Residential and multi-family structures may receive up to a 30% discount by building a residence within 5 years after the lottery.
- Q. Can lots be traded?
- A. Yes, successful applicants may trade with other successful applicants for 14 days after lottery selection.
- Q. Does the subdivision have restrictive covenants and restrictions?
- A. Yes, the covenants and restrictions are available at the borough office.
- Q. Can I draw and keep more than one lot?
- A. No, only one lot per person.



BRISTOL BAY BOROUGH
Box 189
Naknek, Alaska 99633

Announcing
**NAKNEK RIVER SUBDIVISION
LAND LOTTERY**

LAND LOTTERY

NAKNEK RIVER SUBDIVISION

OVERLOOKING THE NAKNEK RIVER
AND THE KATMAI NAT'L. PARK

SCHEDULE

APPLICATION PERIOD:

Applications will be available and accepted from October 12, 1983 to November 11, 1983 Mon. - Fri. 9 a.m. - 4:30 p.m. at the Borough Office.

LOTTERY:

November 26, 1983

LOCATION:

Borough Building

TIME:

3 p.m.

CLOSING:

November 27, 1983 to
December 27, 1983

OVER THE COUNTER:

December 27, 1983 to
April 1, 1983

FOR MORE INFORMATION, CONTACT:
BRISTOL BAY BOROUGH
P.O. BOX 189
NAKNEK, ALASKA 99633
(907) 240-4224

SOME QUICK FACTS

NAKNEK RIVER SUBDIVISION LOCATION IS LOCATED AT MILE 7.5 OF THE NAKNEK-KING SALMON HIGHWAY.

85 LOTS TO BE SOLD

SIZE OF LOTS RANGE FROM 2 ACRE LOTS TO APPROXIMATELY 7 ACRE LOTS.

QUALIFICATIONS:

18 years of age at the time of application.
be a resident of the state of Alaska for thirty days preceding filing of applications.

FEES:

Each application must have a non-refundable fee of \$10.00
Maximum of 15 applications per person.

TERMS:

5% down payment, balance in pre-arranged monthly, quarterly or annual payments.

INTEREST:

6 points below prime interest rate at the time of sale or not less than 5%, not more than 10%.

DISCOUNTS:

Discounts up to 20% can be awarded for timely construction.

ROADS:

Each lot for sale is accessible by an improved gravel road.

WATER & SEWER DISPOSAL:

All lots are sited to accommodate individual wells and sewage disposal systems.

ELECTRICITY:

Power lines will be to all of the lots sold by the spring of 1984.

NAKNEK RIVER SUBDIVISION

ZONING CODE

☐ RESIDENTIAL
☐ MULTI FAMILY
☐ COMMERCIAL
☐ PARKS



NOTE:

Lots excluded from this sale:
Block 3 Lots 7 through 20
Block 5 Lots 1 through 4
Block 4 Lots 7 through 11
Block 11 Lots 1 and 2

ORDINANCE NO. 87-

AN ORDINANCE PROVIDING FOR THE SALE OF CERTAIN BOROUGH LAND
SETTING THE DATE OF SALE AND PRESCRIBING TERMS.

BE IT ORDAINED, by the assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is not of a general and permanent nature and shall not be codified.

Section 2. The following described parcels of Borough land shall be offered for sale at a public sealed bid auction:

<u>PARCEL NAME</u>	<u># LOTS</u>
All lots in Skylight Heights Subdivision, First Addition	39
Grieme Road Agricultural Project, Lots 1, 2, 3	3
U.S.S. 3148, Lots 149, 150, 163	3
U.S.S. 3210, Lots 53, 62	2
U.S.S. 3213, Lot 131	1
Hamilton Acres Subdivision, Lot 3, Block 18	1
Fairmeadow Estates Subdivision, Lot 3, Block 2	1

Section 3. Sealed bids shall be received by the Land Management Department beginning, Monday, August 31, 1987. Bids will be opened in public beginning at 10:00 a.m. Saturday, September 12, 1987. All bids will be opened at the Borough Assembly Chambers, Fairbanks North Star Borough Administrative Center, 8-9 Pioneer Road, Fairbanks, Alaska. Sale brochures and bid packets will be available at the Fairbanks North Star Borough, Department of Land Management, 809 Pioneer Road, Fairbanks, Alaska, beginning Monday, August 17, 1987.

Section 4. Each bid must be accompanied by a bid fee of \$25.00. Down payments will be due at the time the real estate purchase agreement is signed.

Section 5. the minimum acceptable bid shall be eight-five percent (85%) of the appraised value.

Section 6. all sales shall be on the following basis:

a. The terms of the sale shall be eight I) or ii) below, at the option of the purchaser:

- i) the purchaser shall make a down payment of five percent (5%) of the purchase price. The balance due shall be paid in equal monthly installments according to an amortization schedule based on ten percent (10%) compound interest, for a period of ten (10) years. Parcels in the Grieme Road Agricultural Project shall have a payoff period of twenty (20) years.
 - ii) The purchaser shall make a down payment of five percent (5%) of the purchase price. A discount of ten percent (10%) off the purchase price will be given for full payment of the purchase price minus the discount by 5:00 p.m. Wednesday September 16, 1987. If such payment in full is not timely received, the purchaser shall pay in accordance with option (i) above. If payment is timely received, a quitclaim deed shall be executed in accordance with section (6.d) below.
- b. Payment of unpaid balances may be accelerated at the option of the purchaser without penalty.
- c. The highest responsive bidder shall:
 - a) Execute a real estate purchase agreement: and
 - b) Pay in full in accordance with 6.a.ii (above), or execute a promissory note and deed of trust.
- d. After the payment in full has been received, the Borough Administration shall execute a quitclaim deed in favor of the highest responsive bidder.
- e. Any United States citizen or resident alien, eighteen (18) years of age or older, is eligible to participate in this sale.
- f. The following persons may not participate in Fairbanks North Star Borough land sales either in their spouse, dependent child, or solely owned or family owned business.:
 - 1.
 - a. Borough Mayor
 - b. Borough Administrative Director
 - c. Director, department of Land Management

Section 7. The director of the Department of Land Management shall have the authority to publish such auction procedures as she shall deem advisable. All bidders must comply with said procedures to be considered responsive bidders. The director of the Department of Land Management shall have sole discretion to determine if a bidder has complied with bid or auction procedures.

Section 8. Effective Date. This ordinance shall be effective on the day after its adoption.

PASSED AND APPROVED THIS _____ DAY OF _____, 20____.

Presiding Officer

ATTEST:

Clerk of the Assembly

Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907/452-4761

MEMORANDUM

TO: 1987 Land Sale Workers
FROM: Doug Braddock, Land Management Planner
DATE: August 25, 1987
SUBJ: 1987 LAND SALE PROCEDURES



Attached is a set of procedures for the 1987 Sealed Bid Land Auction to be conducted on Saturday, September 12, 1987 beginning at 10:00 a.m. On the last page of the procedures you'll notice that I have tentatively assigned everyone jobs based on similar tasks they have accomplished at land sales in the past. If you would like a different job, please let me know and we'll try to arrange a trade.

I have also attached an information sheet titled, "Receiving Sealed Bids". Note that we are collecting a **\$25.00 fee for each bid submitted.**

Please read both of these papers carefully as many of the procedures have changed from previous years. As a result of these changes, it is important that we stage a realistic mock-up of the sale to ensure that all loopholes in the procedures have been plugged. This "dummy sale" is scheduled for after our staff meeting on **Wednesday, September 2, 1987.** Please let me know if this time is convenient for you. We will discuss the procedures in detail at the dummy sale to make sure all of your questions about the sale are answered.

attachments

DB

LAND SALE PROCUDURES

Sealed Bid Auction
September 12, 1987

Borough Assembly Chambers

SALE SCHEDULE

9:00 a.m.: Transfer bid envelopes to Assembly Chambers.
10:00 a.m.: Sale begins.
1:00 p.m.: Sale ends. Transfer bid envelopes to storage.

1987 Sealed Bid Land Auction

PROCEDURES FOR LAND SALE CUSTOMERS

RECEIVING SEALED BIDS

The department of Land Management will be receiving only hand-delivered sealed bids for the September 12, 1987 Land Sale. These sealed bids will be received in our office from 8:00 a.m. August 31, 1987 until 5:00 p.m. September 8, 1987.

In a sale of this type, it is very important to ensure that all customers are treated in a consistent manner. Therefore, the person receiving bids should follow these steps:

1. Review the sale procedure with the bidder. Make sure the bidder understands the modified sale procedures. In particular, emphasize the fact that the bidder can bid on as many parcels as desired but stands to lose only \$25.00 on each unsuccessful bid.
2. At least one large envelope will be delivered to you by the person submitting the bid. This is the delivery envelope.
3. Open this envelope. It should contain a smaller envelope, a Bidder Application Form, and a completed power-of-attorney from (if necessary). This smaller envelope is the SEALED BID ENVELOPE and SHOULD NOT BE OPENED.

Once the sealed bid envelope and the forms are removed from the large envelope, the large mailing envelope can be discarded.

4. Stamp the date and time received in the lower left corner of the sealed bid envelope. Remember, DO NOT OPEN this envelope. Initial the date and time on the envelope.

Make two photocopies of the Bidder Application Form and;

- A. File one photocopy in the Bidder Application File located in Barbara Powell's office;
 - B. Give one photocopy to the bidder;
 - C. Attach the original to the sealed bid envelope with a spring clip.
5. Collect the \$25.00 bid fee for each bid submitted. Give each bidder a standard Borough receipt for the money collected.
 6. If the bidder has had problems with large unpaid bills or delinquent taxes, remind he/she to call us on **Thursday, September 10, 1987** to verify that the bidder is eligible for the sale.
 7. Update 'BIDS RECEIVED' sheet on the counter.
 8. Give the sealed bid envelope (with the attached Bidder Application Form copy) to Doug or Barbara.
 9. Doug or Barbara will file the bid in the locking file drawer in Barbara's office.

NOTE: The procedures for opening the sealed bids on the day of the sale is very different from that used at past sealed bid auctions. Please read the following procedures carefully to make sure you understand them. Ask Doug or Barb for clarification on any point that is unclear to you.

SALE PROCEDURES

WELCOME: Announcer welcomes public to the land sale. See supplemental “Information for Announcer” instruction sheet.

BID OPENING: (Borough Assembly Chambers):

1. **Announcer** explains process of opening and announcing bids (see “information for Announcer” instruction sheet).
2. **Announcer** opens all of the bids for all of the parcels **Recorder #1** writes the name of each bidder and the amount of each bid on the large bid tally sheet for each parcel. **Recorder #2** writes the name of each bidder and amount of each bid on the small bid tally form for each parcel. As each bid tally sheet is completed, it is taped on the wall of the Assembly Chambers in the order of bid opening. This process continues uninterrupted until all of the bid envelopes for all of the parcels have been opened.
3. There will be a 20 minute pause at this point to allow the audience to inspect the bid tally sheets.

PRIMARY SALE: (Borough Assembly Chambers):

1. Beginning with the parcel with the most bids (if the parcels have the same number of bids, the priority will be determined alphabetically by subdivision name, block, lot), the **announcer** asks the highest bidder for the parcel whether he/she would like to purchase the parcel. If the high bidder does not want to purchase the parcel (or does not sign the real estate purchase agreement), the next highest bidder is given the opportunity to purchase the parcel. The **announcer** notifies the high bidder that a “second chance” to purchase the parcel will not be given unless all other bidders for the parcel decline to purchase it and the parcel is reoffered in the secondary sale. The runner will notify the **announcer** when the real estate purchase agreement is signed for each parcel.

2. The procedure outlined in #1, above, will continue until all parcels with bids placed on them have been offered to the listed bidders.
3. When a high bidder is determined, the announcer will instruct the bidder to go to the HIGH BIDDERS TABLE in the Ester Room to sign the real estate purchase agreement.

SECONDARY SALE:

1. Parcels that are not sold in the primary sale because all bidders declined to accept them will be reoffered for sale in the secondary sale. For each parcel, the **announcer** will read the same list of bidders in the same order as in the primary sale using the same procedure outlined in #1, above. Parcels which had no bids originally placed on them will not be offered in the secondary sale.
2. When a high bidder is determined, the **announcer** will instruct the bidder to go to the HIGH BIDDERS TABLE to sign the real estate purchase agreement.

PROCEDURE FOR HIGH BIDDERS (High Bidders Table – Ester Room)

1. **Runner** delivers the high bid envelopes to the Purchase Agreement Administrator I. The **Purchase Agreement Administrator I:**
 - A. Explains the provisions of the purchase agreement to the purchaser;
 - B. Types the correct information onto the purchase agreement form;
2. Purchase Agreement Administrator II checks each purchase agreement as signed, and:
 - A. Schedules a closing date and time with the purchase and gives the bidder a Closing Appointment form showing the date and time of the closing.
 - B. Makes two photocopies of the original purchase agreement;
 - C. Gives one copy to the purchaser and places the other copy in the parcel file. The original should also go in the parcel file;
 - D. Notifies the **Runner** that the purchase agreement has been completed. The **Runner** then notifies the **Announcer** so that the audience can be informed.

SALE STAFF

ASSEMBLY CHAMBERS:

1 Announcer
1 Filer
2 Recorders

1 Runner

WORKER

Don Bruce
Barb Powell
J. Grandfield,
D. Braddock
Karen Lidster

HIGH BIDDERS' AREA:

1 Purchase Agreement Administrator I
1 Purchase Agreement Administrator II

Ralph Malone
Pat Weaver

GENERAL:

1 Miscellaneous Helper

Nancy Albrittain
-Jackson

8 STAFF MEMBERS NEEDED FOR SALE

SPECIFIC DUTIES BY POSITION:

1. Announcer: See separate "Information for Announcer" instruction sheet.
2. Filer: Keeps track of bids for each parcel as they are opened; helps announcer with all aspects of bid opening; assists announcer in notifying the audience when purchase agreements have been signed.
3. Recorder #1: As bids are opened, records bidder names and amounts on large bid tally sheets; when all bids for a parcel are opened, confers with Recorder #2 to determine the highest bidder; designates the high bid on the large bid tally sheet for each parcel; tapes the bid tally sheet for each parcel on the wall of the Assembly Chambers.
4. Recorder #2: As bids are opened, records bidder names and amounts on small bid tally forms; when all bids for a parcel are opened, confers with Recorder #1 to determine the highest bidder; designates the high bid on each bid tally form; assists Recorder #1 in taping the bid tally sheets on the wall of the Assembly Chambers.

5. Runner: Moves the high bid information from the announcer to the High Bid Table in the Easter Room; informs the announcer when the purchase agreement has been signed for each parcel.
6. Purchase Agreement Administrators I and II:
Administer the real estate purchase agreement to each high bidder; schedules a closing date and time for each high bidder; answers any questions the high bidders have about the closing procedure.
- 7 Miscellaneous Helper: Fills in where needed; answers questions; assists the runner during busy times.

1987 Sealed Bid Land Auction

INFORMATION FOR ANNOUNCER

This sheet should answer any questions you might have on minimum bid requirements and difference between successful and unsuccessful bidders. You will have to make sure that each bid meets the minimum criteria for bid submittal and be able to identify the successful bidder.

GENERAL INFORMATION:

The announcer is the staff worker mainly responsible for conducting the auction. Because the sale procedure is very different this year, the announcer will undoubtedly received many questions from the audience regarding the procedure to be used. At the beginning of the auction explain the following (this script is a only a suggestion; however, all of the points contained in the script should be mentioned in the introductory explanation) :

“There will be three parts to this auction: (1) the bid opening; (2) the primary sale, and (3) the secondary sale. Please listen carefully while I briefly explain each part.

“In just a moment we will open all of the bids for all of the parcels at once and place them on large sheets of paper. These sheets of paper will be placed around the Assembly Chambers where you can see them. We will then give you about 20 minutes to look over the results of the bidding.

“In the primary sale the highest bidder for each parcel will be asked whether he or she would like to purchase the parcel. If not, the next highest bidder will be asked the same question, and so on until the parcel is accepted. Once you decide you do not want the parcel you cannot change your mind unless the parcel is not purchased by any other person that has bid on it. We will start with the parcel having the most bids on it and progress to that having the least number of bids on it. If the parcels have the same number of bids, the priority will be determined alphabetically by subdivision name, block, lot. Each bidder that wants to purchase a parcel will be instructed to go to the High Bidders Table to sign a real estate purchase agreement and schedule a closing.

“Parcels that received bids but did not get sold in the primary sale will be reoffered in the secondary sale. I will proceed in the same order as in the primary sale. This will give you a second chance to purchase a parcel you may not have accepted in the primary sale.

“You may ask yourself, ‘Why dose this sound so complicated? What are the advantages?’ the main reason we have adopted this procedure is to give you more flexibility at this sale. Because you do not risk losing a down payment, you can bid on many lots with idea of increasing your chances of getting the parcel that you want. You can choose not to purchase a parcel on which you are the highest bidder without fear of losing your down payment. You stand to lose only the \$25.00 bid fee. The secondary sale allows you a second chance to purchase a parcel you might have chosen not to accept the first time around.

“Does anyone have any questions before we begin?”

MINIMUM BID REQUIREMENTS:

1. The amount of the bid must equal at least 85% of the appraised value for the parcel.
2. A bidder or an agent with power-of–attorney must be present at the sale in order to purchase a parcel. When a high bidder has been identified, verify that the bidder is in the audience. If the bidder is not present, the parcel is offered to the next highest bidder. Ask the highest bidder whether he/she would like to purchase the parcel. If the bidder would like to purchase the parcel, instruct him/her to process to the HIGH BIDDERS TABLE. If the bidder does not want to purchase the parcel, ask the next highest bidder. Continue this procedure until the parcel is accepted. If all bidders decline to purchase a parcel, it will be reoffered in the secondary sale.

SUCCESSFUL BIDDERS:

A successful bidder is one who meets the minimum bid requirements, submitted the highest bid for a parcel, wants to purchase the parcel, and is present at the sale. In the case of a tie bid, the bid submitted to the Department of Land Management earliest will be the successful bid. Each bid envelope is marked with the date and time of submittal.

THINGS TO ANNOUNCE:

Announce the following at the beginning of the sale and periodically throughout the sale:

1. Warn the audience that all low bidders for a parcel should remain in the audience until you indicate that the purchase agreement for the parcel has been signed. Mention that the secondary sale will allow bidders a “second chance” to purchase a parcel.
2. Minimum bid requirements (see above).
3. Definition of a successful bidder (see above).
4. Warn the audience that all persons who sign a purchase agreement **MUST** be at the scheduled closing meeting that they will arrange at the time the purchase agreement is signed.
5. Announce that the OTC Sale will resume on Monday, September 14, 1987 in the office of the Department of Land Management.

1987 SEALED BID LAND SALE

BID TALLY SHEET

PAGE: 1

LOT/PARCEL				NUMBER OF BIDS	
FAIRMEADOW ESTATES	BLK	02	LOT:	3	
GRIEME ROAD	BLK		LOT	1	
GRIEME ROAD	BLK		LOT	2	
GRIEME ROAD	BLK		LOT	3	
HAMILTON ACRES	BLK	18	LOT	3	
SKYLIGHT HEIGHTS	BLK	01	LOT	1	
SKYLIGHT HEIGHTS	BLK	01	LOT	2	
SKYLIGHT HEIGHTS	BLK	01	LOT	3	
SKYLIGHT HEIGHTS	BLK	01	LOT	4	
SKYLIGHT HEIGHTS	BLK	01	LOT	5	
SKYLIGHT HEIGHTS	BLK	01	LOT:	6	
SKYLIGHT HEIGHTS	BLK	01	LOT	7	
SKYLIGHT HEIGHTS	BLK	01	LOT	8	
SKYLIGHT HEIGHTS	BLK	01	LOT	9	
SKYLIGHT HEIGHTS	BLK	01	LOT	10	
SKYLIGHT HEIGHTS	BLK	01	LOT	11	
SKYLIGHT HEIGHTS	BLK	01	LOT	12	
SKYLIGHT HEIGHTS	BLK	01	LOT	13	
SKYLIGHT HEIGHTS	BLK	01	LOT	14	
SKYLIGHT HEIGHTS	BLK	01	LOT	15	
SKYLIGHT HEIGHTS	BLK	01	LOT:	16	
SKYLIGHT HEIGHTS	BLK	01	LOT	17	
SKYLIGHT HEIGHTS	BLK	01	LOT	18	
SKYLIGHT HEIGHTS	BLK	01	LOT	19	

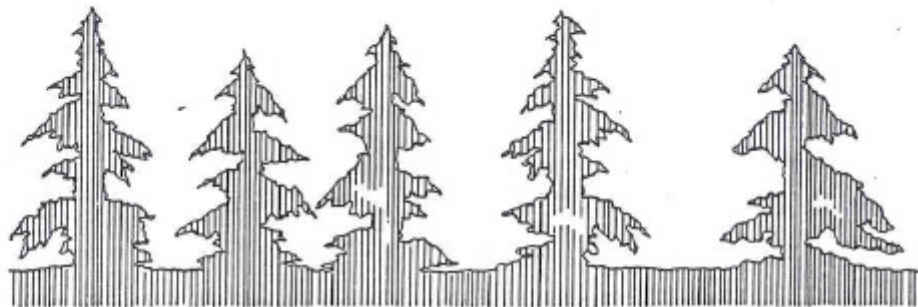
PAGE: 2

LOT/PARCEL				NUMBER OF BIDS	
FAIRMEADOW ESTATES	BLK	02	LOT:	1	
GRIEME ROAD	BLK		LOT	2	
GRIEME ROAD	BLK		LOT	3	
GRIEME ROAD	BLK		LOT	4	
HAMILTON ACRES	BLK	18	LOT	5	
SKYLIGHT HEIGHTS	BLK	01	LOT	6	
SKYLIGHT HEIGHTS	BLK	01	LOT	7	
SKYLIGHT HEIGHTS	BLK	01	LOT	8	
SKYLIGHT HEIGHTS	BLK	01	LOT	9	
SKYLIGHT HEIGHTS	BLK	01	LOT	10	
SKYLIGHT HEIGHTS	BLK	01	LOT:	11	
SKYLIGHT HEIGHTS	BLK	01	LOT	1	
SKYLIGHT HEIGHTS	BLK	01	LOT	2	
SKYLIGHT HEIGHTS	BLK	01	LOT	3	
SKYLIGHT HEIGHTS	BLK	01	LOT	4	
SKYLIGHT HEIGHTS	BLK	01	LOT	5	
SKYLIGHT HEIGHTS	BLK	01	LOT	6	
SKYLIGHT HEIGHTS	BLK	01	LOT	7	
SKYLIGHT HEIGHTS	BLK	01	LOT	8	
SKYLIGHT HEIGHTS	BLK	01	LOT	9	
U.S.S. 3148	BLK	01	LOT:	149	
U.S.S. 3148	BLK	01	LOT	150	
U.S.S. 3148	BLK	01	LOT	163	
U.S.S. 3210	BLK	01	LOT	53	

★ Fairbanks
North
Star
Borough

Department of Land Management
809 Pioneer Road
P.O. Box 1267
Fairbanks, Alaska 99707
907/452-4761

Fairbanks North Star Borough
LAND SALE
SEPTEMBER 1987



FAIRBANKS NORTH STAR BOROUGH

P.O. Box 1267 - 809 Pioneer Road
Fairbanks, Alaska 99707
(907) 452-4761

BOROUGH MAYOR

Juanita Helms

ASSEMBLY MEMBERS

Sandra Stringer
Jerry Norum
Valerie Therrien
Paul Chizmar
Chris Birch

Carol Rayfield
Jeff weltzin
J.B. Carnahan
Ed Shellinger
Phil Younker

Buzz Otis
Presideing Officer

1987 SEALED BID LAND AUCTION

Saturday, September 12, 1987

In the

Fairbanks North Star Borough Assembly Chambers

DEPARTMENT OF LAND MANAGEMENT

Nancy Albrittain-Jackson, Director

TABLE OF CONTENTS

INSTRUCTIONS FOR PARTICIPANTS

Important Dates and Places	1
Sealed bid Land Sale Procedures	2
High Bidders	4
Participant Eligibility	4
Terms	5

REQUIRED READING FOR ALL PARTICIPANTS

Site Inspection	8
Conveyance and Taxes	8
Zoning	8
Platting.	9
Mineral Resources	9
Utilities	9
Sewer and Water	10
Driveways, Roads, and Drainage	10
Trails and Easements	11
Agricultural Restrictions	11
Finding the Lot Corners	11

BUYER'S CHECKLIST	12
-----------------------------	----

PARCEL CATALOG

Skylight Heights – First Addition	14
South Fairbanks Lots	23
Hamilton Acres Parcel	25
Fairmeadow Estates Parcel	28
Harding Lake, Second Tier Lots	33
Grieme Road Agricultural Parcels	37

FAIRBANKS NORTH STAR BOROUGH
Department of Land Management
1987 SEALED BID LAND AUCTION

INSTRUCTIONS FOR PARTICIPANTS

IMPORTANT DATES AND PLACES

Sale Brochures/Bid Packets Available:

When: 8:00 a.m., Aug. 17, 1987
To
5:00 p.m., Sept. 8, 1987

Where: Department of Land Management,
second floor, Borough Administrative
Center, 809 Pioneer Road, Fairbanks
Alaska, 99701

Bid Submittal Deadline:

When: 5:00 a.m., September 8, 1987

Where: Bids must be submitted IN PERSON to
The Department of Land Management,
second floor, Borough Administrative
Center, 809 Pioneer Road, Fairbanks
Alaska, 99701

Land Sale:

When: 10:00 a.m., Saturday, September 12, 1987

Where: Borough Assembly Chambers, first floor,
Borough Administrative Center 809
Pioneer Road, Fairbanks, Alaska, 99701

Reoffering in the Over-the-Counter Sale:

When: Starting 8:00 a.m., Monday, September 14, 1987

Where: Department of Land Management, second
floor, Borough Administrative Center,
809 Pioneer Road, Fairbanks, Alaska, 99701

SEALED BID LAND SALE PROCEDURES

1. You may submit any number of bids in this land sale. However, you may submit only one bid per parcel. There will be a non-refundable \$25.00 fee for each bid submitted, regardless of whether the bid is successful or not.
2. The required down payment will be due on the day of the sale at the time the real estate purchase agreement(s) is signed.
3. You MUST BE PRESENT at the sale to purchase parcels. If you cannot be present, you can assign an agent to act on your behalf with a power-of-attorney form available from the Department of Land Management. If the high bidder is not in the audience or declines to purchase the parcel, option to accept the parcel will pass to the next highest bidder.
4. In order to reduce the number of defaults on land sold by the Borough, a limited credit check will be done to determine the eligibility of each applicant. New borrowers with no credit history will be eligible. However, if you have had previous difficulties with large unpaid bills, delinquent taxes, or similar situation, you should call the Department of Land Management at 452-4761, ext. 242 on Thursday, September 10, 1987 to obtain your eligibility status. The Department of Land Management will not call you. **YOU MUST CALL LAND MANAGEMENT TO BE CERTAIN YOU ARE ELIGIBLE FOR THE SALE.** If you are determined to be ineligible, your bid will be declared invalid and your application fee will be refunded. This is the only case in which the application fee will be refunded.
5. Sale day procedures will be different from past sealed bid sales the Borough has conducted. Please read the following very carefully to familiarize yourself with the new procedures. The new procedures are designed to make it easier for you to place bids and to increase the amount of flexibility you have on the sale day itself. These procedures will allow you to bid on many parcels and choose to purchase only those you desire the most. You stand to lose only the \$25.00 fee for each unsuccessful bid. The sale will consist of these three parts:
 - a. Bid Reading – At the beginning of the sale, all bids for all parcels will be opened, read publicly and listed on large sheets of paper placed within viewing distance of the audience.

- b. Primary Sale - Beginning the parcel with the most bids the high bidder will be asked whether he/she accepts the parcel. If so, that parcel is deemed to have been sold and the announcer will move on to the parcel with the next highest number of bids. If the high bidder does not wish to purchase the parcel or does not sign the real estate purchase agreement, the next highest bidder is given the opportunity to accept the parcel. A “second chance” for the high bidder to purchase the parcel will not be given unless all other bidders for the parcel decline to accept it and the parcel is reoffered in the secondary sale. This process will continue until all parcels with bids placed on them have been offered to the listed bidders.
- c. Secondary Sale – Parcels that are not sold because all bidders declined to accept them in the primary sale will be reoffered for sale in the secondary sale. The same list of bidders will be read by the announcer in the same order as in the primary sale. This will give the bidders who have declined to purchase a parcel in the primary sale a second chance to purchase. Parcels which had no bids originally placed on them will not be offered in the secondary sale.

The announcer will clarify the above procedures at the beginning of the land sale to make sure everyone understands them.

- 6. If you are the high bidder, you must either proceed to the HIGH BIDDERS TABLE to sign a real estate purchase agreement or you must notify the announcer that you do not wish to buy the parcel.
- 7. All persons who have submitted bids for a parcel should remain in the Assembly Chambers until the announcer notifies you that the real estate purchase agreement has been signed. If the high bidder does not sign the real estate purchase agreement, the parcel will be reoffered to the remaining bidders during the Secondary Sale.

HIGH BIDDERS

1. At the HIGH BIDDERS table you will be asked to complete and sign a real estate purchase agreement with the Borough.
2. High bidders must place their minimum 5% down payment(s) with the clerk at the time the real estate purchase agreement is signed (on the day of the sale). Cash, personal checks, money orders, cashiers' checks, and certified checks will be accepted. Please make checks out to FNSB.
3. You must arrange an appointment with the Department of Land Management for closing to complete a Deed of Trust and Promissory Note or to pay in full
4. You must pay for all recording, processing, and closing fees (approximately \$150.00 per parcel) at the time of closing. Call our office at 452-4761 (ext 241) for an estimate of these costs.
5. See the section about TERMS below.

PARTICIPANT ELIGIBILITY

1. Any United States Citizen or resident alien, eighteen (18) years of age or older, is eligible to participate in this sale. Please see Item #4 on page 2.
2. There is no requirement for the applicant to be a resident of Alaska.
3. The following person may not participate in Fairbanks North Star Borough land sales either in their own name or in the name of their spouse, dependent child, or solely-owned or family-owned business:
 - a. Borough Mayor
 - b. Borough Administrative Director
 - c. Director, Department of Land Management

TERMS

Option #1: A minimum down payment of five percent (5%) of the purchase price. The balance shall be paid in equal monthly installments according to an amortization schedule based on ten percent (10%) interest, for a period of ten (10) years. Parcels in the Grieme Road Agricultural Subdivision shall have a payoff period of twenty (20) years.

Option #2: A discount of ten percent (10% of the purchase price is available if the balance is paid in full by the time of closing. A down payment of five percent (5%) of the purchase price must be made at the time the real estate purchase agreement is signed if you choose this option.

Payments of unpaid balances may be accelerated at the option of the purchaser. There is no penalty for prepayment.

IF YOU CANNOT BE AT THE LAND SALE

If you cannot attend the land sale, you can give power-of-attorney to someone to act on your behalf at the sale. Special Power-of-Attorney forms specifically for the sale are available at the Department of Land Management. You must use this special form. If possible, the completed and notarized form (a notary is available at the Borough) should be attached to your bid application and a copy given to the person with the power-of-attorney. Otherwise the person with power-of-attorney must have the form in his/her possession at the sale. The parcel legal description on the power-of-attorney form must be the same as the parcel on which you are bidding. If you bid on more than one parcel you will need a separate form for each parcel.

Be sure the person to whom you have given power-of-attorney knows that he/she **MUST** be present at the sale. If that person is not at the sale, you lose any opportunity to buy parcels.

REOFFERING IN THE OVER-THE-COUNTER SALE

Parcels not sold in the sale will be reoffered over-the-counter starting at 8:00 a.m., Monday, September 14, 1987. In the over-the-counter sale the lots will be offered on a continuous first-come, first-served basis during normal business hours. Parcels will be sold at appraised value and at the same terms as in the sale. For more information, contact the Department of Land Management at the Borough Administrative Center (452-4761 ext. 241).

DISCLAIMERS

This brochure is for informational purposes only, and does not constitute an offer to sell. It is possible that, after the publication of the packet, modifications may become necessary. Anyone wishing information concerning modifications may call or write the Borough Department of Land Management at P.O. Box 1267, Fairbanks, Alaska 99707, (907) 452-4761. Any such changes will be announced as soon as possible and will be available at the Department of Land Management. However, it is your responsibility to keep yourself informed of any changes or corrections.

Although the Borough has researched the land that is for sale, the Borough makes no warranty or representation, either expressed or implied, with respect to the land that is for sale, including its quality, merchantability, or fitness for particular purpose. This land is sold "as is" and you, the buyer, are assuming the entire risk as to its quality and suitability for your intended use.

In no event shall the Borough be liable for direct, indirect, special, incidental, or consequential damages arising out of the use or the inability to use the land that is for sale, even if advised of the possibility of such damages.

The right is reserved to adjourn, postpone, or vacate this sale, in whole or part, at any time prior to or during the offering, where such action is deemed necessary by the Borough Administration to protect the interest of the Borough. One or more parcels may be modified, or withdrawn, at any time prior to or during the disposal period.

The right is reserved to waive any technical defects in this brochure.

FURTHER INFORMATION

Further information may be obtained from the Department of Land Management, Fairbanks North Star Borough, P.O. box 1267, Fairbanks, Alaska 99707, or by phoning (907) 452-4761.

REQUIRED READING

FOR ALL PARTICIPANTS

SITE INSPECTION

ALL PARTICIPANTS ARE STRONGLY URGED TO PERSONALLY EXAMINE THE PARCEL(S) IN WHICH THEY ARE INTERESTED PRIOR TO SUBMITTING AN APPLICATION. The Borough does not warrant that the parcels are suited for any particular use whatsoever. There is no substitute for a thorough personal inspection of the parcel(s). If you would like a representative of the Department of Land Management to accompany you on a site inspection, arrange an appointment with our office at your convenience (call 452-4761 ext. 241).

CONVEYANCES AND TAXES

Conveyance of title to parcels sold in this sale will be by quitclaim deed. A quitclaim deed conveys title or interest in land without warranty. However, most land offered in this sale was conveyed from the federal government to the state and from the state to the Borough. The Borough obtained patent to the land through the Municipal Selections Act (AS 29.18.201-.213). There are no known intervening owners or claimants. Only the Hamilton Acres Parcel and the Fairmeadow Estates Parcel were privately owned prior to Borough ownership.

Parcels selling for more than \$2,500.00 will have \$50.00 in sales tax assessed on them. Parcels selling for under \$2,500.00 will have two percent (2%) sales tax assessed on them.

Property sold in this sale is also subject property taxes and assessments. Presently there is no property tax due.

ZONING

All parcels offered in this sale are zoned in accordance with Title 18 of the Fairbanks North Star Borough code of Ordinances. The parcels shall be used only in accordance with this Title.

A Zoning permit must be obtained from the Borough, Department of Community of Planning, before that start of any excavation, construction, or installation for a new structure or for the modification of any existing structure which would result in a different use of the structure, an increase in number of dwelling units in the structure, or in the size, height or location of the structure. A Zoning Permit is not a Building Permit. There are not building codes outside of the City of Fairbanks with the Fairbanks North Star Borough. The Zoning Permit is used to determine compliance with the local zoning designation. Construction within the City of Fairbanks must conform to City building codes.

PLATTING

Lots in Skylight Heights Subdivision are being offered for sale contingent upon receiving final plat approval before September 12, 1987. Grieme Road Agricultural Parcels have received approval from the Fairbanks North Star Borough Platting Board. The plat for subdivision contains more details than can be included in the maps in this brochure. You are encouraged to inspect copies of the plats located on the counter at the Department of Land Management.

MINERAL RESOURCES

The State of Alaska retains ownership of all oil, gases, coal, ores, minerals, fissionable material, geothermal resources and fossil fuels which may be in or upon land conveyed to the Borough. The State has reserved the right to enter upon the land to explore for and develop these materials. It may lease them or allow mining claims to be staked. However, Alaska law also provides that the surface owner be compensated for damages resulting from mineral exploration and development.

A Mineral Closing Order has been obtained for Skylight Heights Subdivision. The mineral potential for other parcels in this sale is low. The Hamilton Acres Parcel and Fairmeadow Estates Parcel include the mineral rights because the original private owner obtained the land from the federal government through homesteading.

UTILITIES

Electric service may not be available to all subdivisions and parcels. Engineering and economic considerations, availability of rights-of-way, and how quickly the parcels are occupied will all play a role in determining how soon a particular parcel can be served. If electric service is important to you, contact Golden Valley Electric Association for more information before purchasing a lot. It is your responsibility to check on the specific availability of power to the lot in which you are interested. The Borough is not planning to supply electrical power to or within any of the parcels offered in this sale.

Telephone service will not be provided by the Borough. If telephone service is important to you, contact the Municipal Utilities System (MUS). If the parcel in which you are interested is within, or south of, North Pole, contact Telephone Utilities of the northland.

SEWER AND WATER

Purchasers are responsible for their own water supply and sewer disposal systems. The Borough does not provide installations, test borings, percolation tests, wells, or other improvements. All water and sewer-related improvements are subject to applicable State of Alaska regulations enforced by the State of Alaska, Department of Environmental

Conservation (ADEC). These regulations detail specific requirements for water supply systems, sewage disposal systems, and solid waste disposal.

All subdivisions have been reviewed and approved by ADEC as required by state regulation 18 AAC 72.065. Potential purchasers are urged to examine the subdivision plats for any conditions of approval. Purchasers are required to contact ADEC prior to beginning any construction of a dwelling on a parcel to familiarize themselves with the governing state regulations and any special requirements that might apply. All sewage systems must be approved by ADEC.

To obtain water rights, the purchaser must apply to the State of Alaska, Department of Natural Resources, at the Northcentral District Office, 4420 Airport Road, Fairbanks, Alaska, phone (907) 479-2243.

DRIVEWAYS, ROADS AND DRAINAGE

No obstructions shall be placed in drainage ditches adjoining any subdivision lot. Metal culverts of not less than 12 inches in diameter by 20 feet in length shall be placed on grade under driveways leading from the public roads onto any lot to avoid obstruction of any drainage ditch. If a parcel is not within a road service area, the road maintenance responsibilities rest with individual purchasers.

Within Skylight Heights Subdivision, First Addition, all driveway access must be from subdivision roads. No driveway access will be allowed from Murphy Dome Road.

TRAILS AND EASEMENTS

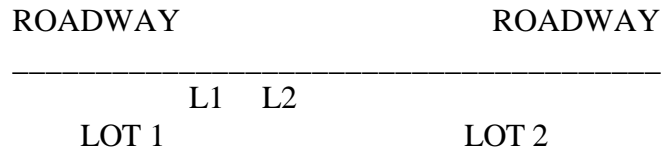
The lots being offered for sale are subject to trails or easements of various types. These trails and easements are delineated on the plat for each subdivision. It is important that you inspect the full sized subdivision plat(s) in the Department of Land Management office to ensure that you are aware of the presence of any trails or easements which may affect the lot in which you are interested.

AGRICULTURAL RESTRICTION

Agricultural use restrictions and covenants against resubdivision have been placed on the three agricultural parcels in the Grieme Road Agricultural Project. Prospective purchasers are advised to familiarize themselves with these restrictions (See page 39).

FINDING THE LOT CORNERS

Look for survey markers (similar to the following to identify the corners of a lot in Skylight Heights Subdivision:



This marker is approximately 1 ½ inches in diameter and mounted on rebar close to the ground. Look for survey stakes approximately 15 feet from the edge of the driverable surface of the road. At the base of each stake you will find one of the above markers.

CHECKLIST

The following checklist is only for your convenience to aid you in making an informed decision. All of these factors should be considered by a prospective purchaser, but other factors not included in this list may be of importance to you.

1. _____ **HAVE YOU INSPECTED THE PARCEL PERSONALLY?** You are strongly encourage to review all information and personally inspect the parcel you intend to purchase. If you would like to inspect the parcel along with a member of our staff, please arrange an appointment at your convenience.

2. _____ Are there any easements or other encumbrances on the parcel which you intend to purchase? This information is available at the office of the Borough Department of Land Management.

3. _____ Does the zoning of the parcel allow the use you anticipate for it? The Department of Community Planning can answer questions you may have regarding specific uses.

4. _____ Does the parcel have adequate access year around for your vehicle? What provisions will be necessary for a driveway?

5. _____ Is the parcel suitable for your anticipated use? Is there a good building site on the parcel considering the following:
 - soils and vegetation
 - easements
 - slope and aspect
 - zoning and setbacks

6. _____ Are the soils on the parcel satisfactory for your intended use? What is the potential for permafrost and/or thermokarst pitting? Contact the USDA Soil Conservation Service (479-6767) for specific information about soil types.

7. _____ Is the slope satisfactory? Is the slope to great for your intended type of construction?

8. _____ Are the utilities you desire presently available, or soon to be available? If they are not available, how much will it cost to bring them to the parcel? Contact Golden Valley Electric Association (electricity) and the Municipal Utilities System (telephone) for further information.

9. _____ If you desire a well, how deep is the water table? Is the available water of good enough quality to fit your needs?
10. _____ Always check what is happening on land adjacent to the parcel. What is the potential for further development in the area, and will further development be of concern to you?
11. _____ Are there use restrictions (covenants) contained in the deed for the parcel in which you are interested? Agricultural parcels have retractions against resubdivision and against certain uses. The Borough Department of Land Management can provide a copy of any restrictions or covenants for a parcel.
12. _____ Are there any other factors besides these which are important to your?

PARCEL

Catalog

SKYLIGHT HEIGHTS – FIRST ADDITON

Legal Description: Within the SE1/4 of Sec. 9 and the N1/2, N1/2 SW1/4 of Sec. 16 in T. 1N., R. 3W, F.M.

General Location: The subdivision is located northwest of the City of Fairbanks on new Murphy Dome Road, 7 miles from the intersection with Goldstream Road and Sheep Creek Road.

Soils: This subdivision contains Gilmore, Steese, and Fairbanks silt loams which are well drained and generally good for development. For more information regarding soil types, contact the USDA Soil Conservation Service at 479-6767.

Slope: Slopes range from 15% - 30%.

Aspect: Most lots are south facing.

Vegetation: Mixture of birch, aspen, and spruce.

Water: The potential for arsenic to occur in well water is moderate. Wells can be expected to be deep.

Access: All lots are accessed by either Vancouver Road or Richard Berry Drive, both off new Murphy Dome Road. Murphy Dome Road is paved from the intersection with Goldstream Rod and Sheep Creek Road to beyond the subdivision.

Fire Service Area: None.

Road Service Area: On August 27, 1987, the Borough Assembly will vote on the addition of Skylight Heights to an existing road service area. If approved, maintenance of the roads by the service area will begin July 1, 1988. For more information, contact the Rural Service office at 452-4761, ext. 223.

Utilities: The nearest power line is approximately two miles to the east in Drouin Springs Subdivision.

Zoning: Rural Estates LA-II (RE LA-II) with minimum lot size of 5.4 acres. For more information about specific uses within RE LA-II zoning, contact the Department of Community Planning at 452-4761, ext. 260.

Easements: There is a 15' public utility easement (P.U.E.) along some interior lot lines and a 30' P.U.E. along lot lines adjacent to road right-of-ways. Two lots have driveway easement along the P.U.E. You should inspect the detailed plat in the

Department of Land Management office for the exact easements on the lot in which you are interested.

Covenants: The covenants for this subdivision are listed on pages 15-17.

Mineral Rights: The State of Alaska has retained ownership to all mineral resources which may be in or upon the land. However, a mineral closing order has been obtained from the State for this subdivision. This closing order prohibits the staking of mining claims while it is in effect.

* * * * *

DECLARATION OF PROTECTIVE COVENANTS

FOR

SKYLIGHT HEIGHTS SUBDIVISION – FIRST ADDITON

The FAIRBANKS NORTH STAR BOROUGH, an Alaska municipal corporation, of Fairbanks, Alaska, being the fee owner of all lots of that certain subdivision known as SKYLIGHT HEIGHTS SUBDIVISION FIRST ADDITON, according to the plat thereof filed _____ as Plat NO. _____, Records of the Fairbanks Recording District, State of Alaska, desiring to ensure the orderly development and use of lots in said subdivision, and desiring to prevent nuisances or impairments of the attractiveness or value of said lots, does hereby declare and adopt the following protective covenants as to limitations and restrictions upon the use of all lots in the Skylight Heights Subdivision – First Addition.

I. PROTECTIVE COVENANTS

In cases where the following covenants conflict with the subdivisions zoning, the most restrictive standard shall apply.,

1. LAND USE AND BUILDING TYPE. All lots shall be used only for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot containing more than two (2) DWELLILNGS IN A SINGLE BUILDING (DUPLEX). No building shall exceed 35' in height. Each lot shall have only one building containing dwellings. Accessory buildings, such as garages or other buildings customarily adjunctory to a place of residence, shall be of a permanent nature and of harmonious design and appearance with each other and with dwelling building.

2. DWELLING SIZE AND QUALITY. The minimum permitted dwelling size for this subdivision shall be 480 square feet, exclusive of basements, decks, garages, and open porches. Cabin lofts may be included in the minimum square footage calculations. The exterior of said dwelling shall be completed within three (3) years after the beginning of construction, and finished with an acceptable, recognized, permanent finish material. No exposed urethane insulating foam is allowed. Accessory buildings shall also be finished in the same manner as the exterior of the dwelling within three (3) years after the beginning of construction.

3. MOBILE HOMES. No mobile home, trailer or any type of temporary dwelling unit will be allowed in this subdivision as a permanent residence. All homes must have permanent foundations in conformance with the minimum standards of the Federal Housing Administration as of the year of construction. Absolutely no exception to this covenant will be allowed. The term "MOBILE HOME" means a dwelling unit which is designed for transportation as one or more units, after fabrication, on highways to a site where it is to be occupied and to which site it arrives complete and ready for occupancy except for incidental unpacking and assembly operations, location on jacks or foundations, and connections to utilities.

4. FACTORY ASSEMBLED DWELLINGS. Factory assembled dwellings are allowed under these covenants. "Factory assembled dwelling" means a dwelling that comprises at least two finished, transportable components which are combined on the site to form one complete dwelling attached to a permanent foundation.

5. EASEMENTS. Easement for the installation and maintenance of utilities are reserved as shown on the recorded plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities.

6. NUISANCES. No noxious or offensive activity, including, but not limited to, noise disturbances caused by motorized vehicles, shall be carried out on any lot or subdivision road, nor shall anything be done thereon which may become an annoyance or nuisance. Specifically, (a) the parking of commercial vehicles or the use of the lot for the storing of vehicles, machinery, surplus equipment, scrap, or any other items not directly connected with the use of a lot for residential purposes is specifically declared to be a nuisance within the meaning and intent hereof; (b) the collection or keeping of non-operational motor vehicles and other non-operational machinery of any other type is prohibited; (c) the parking of vehicles and the storage of coal, wood, or any other materials on subdivision roadways is prohibited; (d) the operation of any commercial

business is strictly prohibited. No automotive or heavy equipment repair shops will be allowed.

7. TEMPORARY RESIDENCE. An individual may reside in a mobile home, trailer or temporary dwelling located on an undeveloped lot in the subdivision for a period not to exceed on (1) calendar year only for the purpose of residing in said mobile home, trailer or temporary dwelling while constructing a permanent residence on said lot.

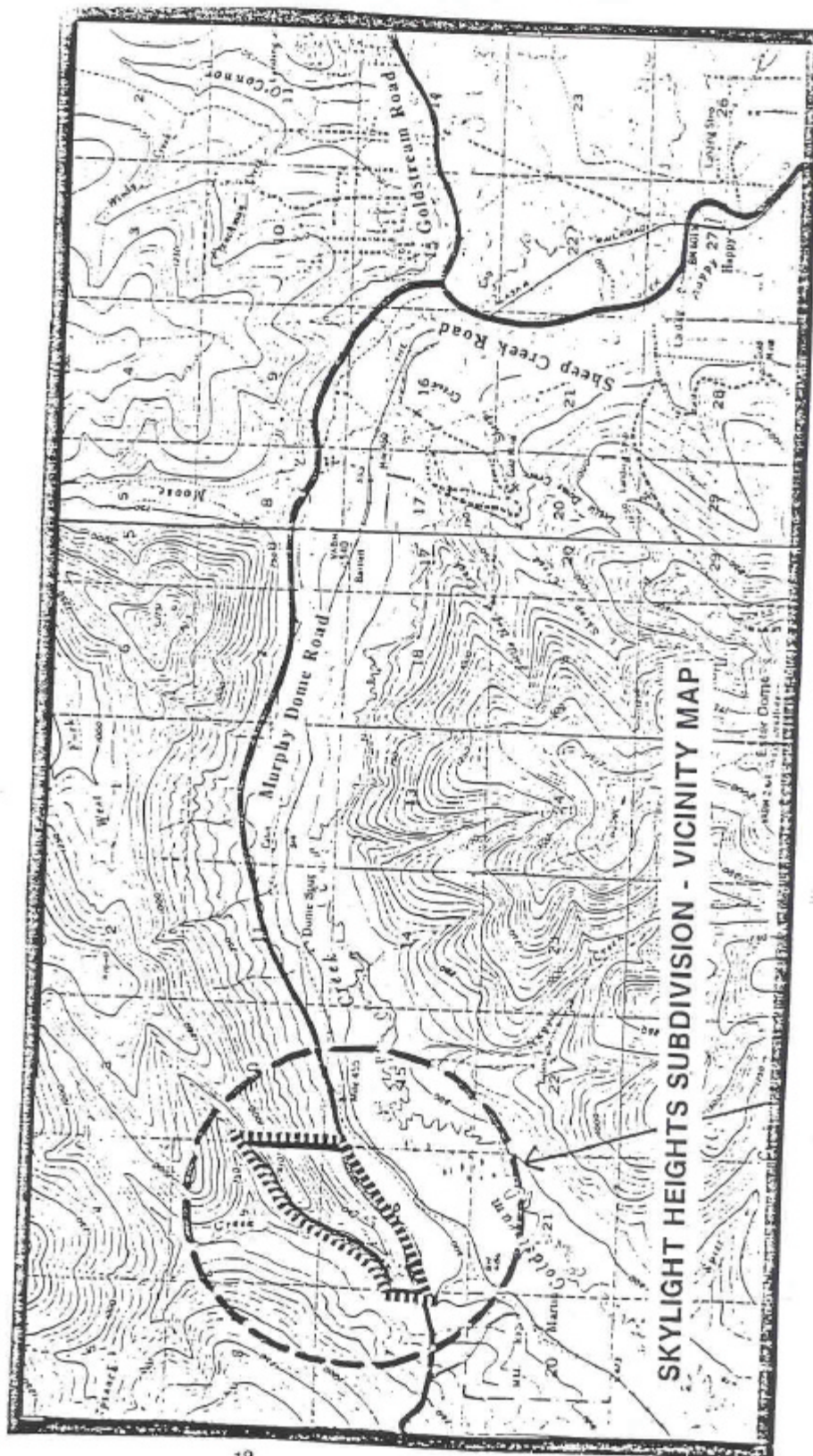
8. GARBAGE AND REFUSE DISPOSAL. No lot, nor any part thereof, shall be used as a dumping or storage ground for refuse or rubbish of any kind. Trash, garbage and other waste shall be kept in sanitary containers; accumulated trash, garbage, and other waste shall be dispensed of regularly.

II. GENERAL PROVISIONS

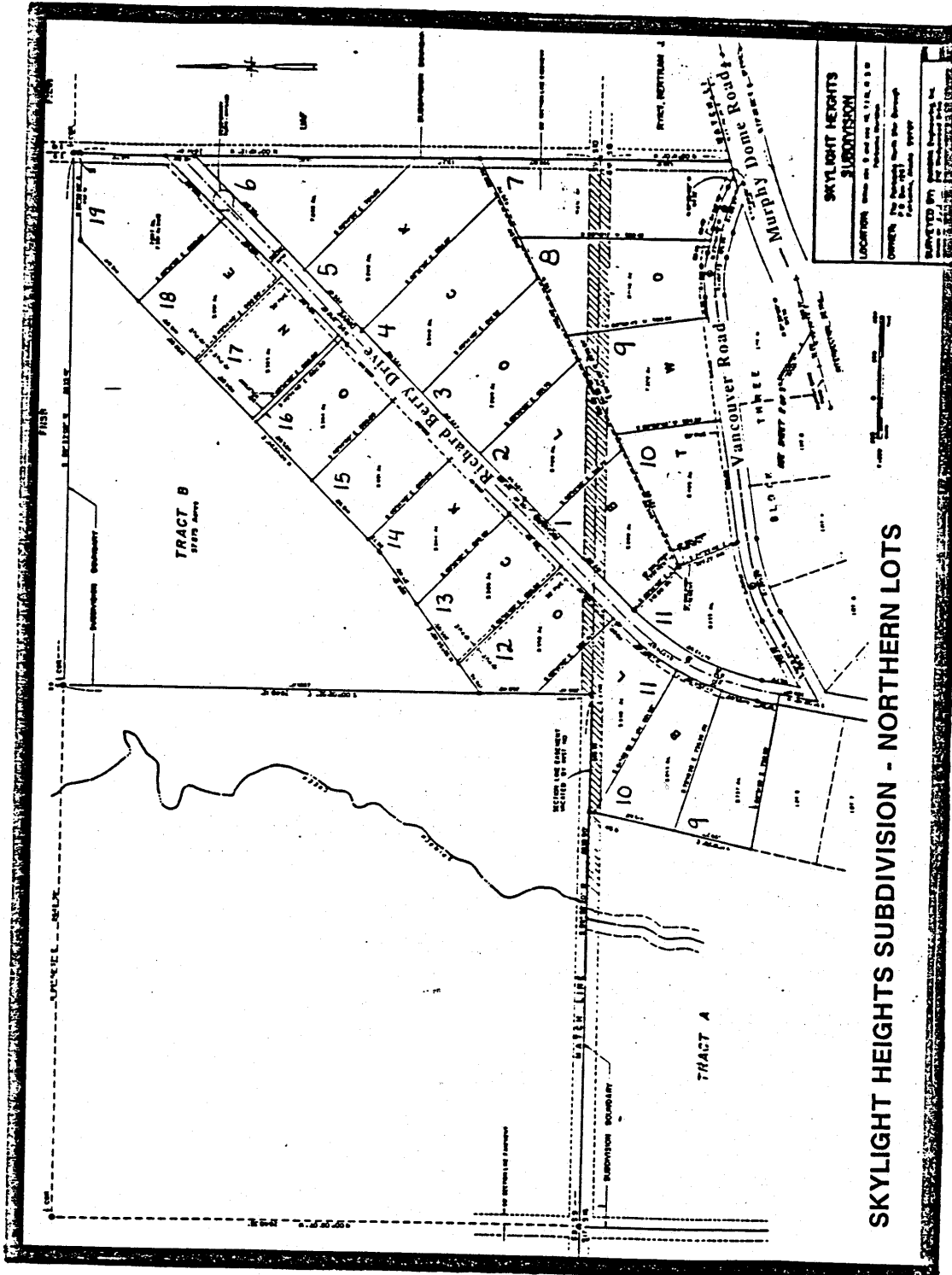
1. **DURANTION.** These covenants shall run with the land and shall be binding upon the within parties and those claiming, under the within parties though succession in interest to any lot or lots in said subdivision, to stand for the benefit and protection of present and future owners of lots in said subdivision. These covenants shall be enforceable at the insistence of the record owner of any lot in said subdivision. The successors in interest thereto shall ensure their benefit and protection by proceedings in equity to restrain violation and by proceedings at law to recover damages for the violation thereof. These protective covenants are to remain in effect for a period of twenty-five (25) years, commencing on the date of recordation hereof, but being subject modification or renewal by written instrument executed by all the record owners of said lots, placed of record in said Fairbanks Recording district.

2. **FULLY PROTECTED RESIDENTIAL AREA.** The covenants contained herein in their entirety shall apply to the entire contained herein in their entirety shall apply to the entire SKYLIGHT HEIGHTS SUBDIVISON – FIRST ADDITON.

3 **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.



1R



16.12.070—16.12.080

The Mayor and City Clerk are hereby authorized and directed to execute a deed (lease) to:

(Buyer or Lessee)

Upon execution and compliance with all terms and conditions of this Resolution.

PASSED AND APPROVED by the City Council of the City of Petersburg, Alaska this _____ day of _____, 20____.

(Ord. 477 §3 (part) , 1982).

16.12.070 Public auction. Any sale or lease of property shall be offered at public auction unless the council specifically approves a motion to allow an exemption to an auction. When property is sold or leased at a public auction the following procedures shall apply:

- A. The minimum accepted bid shall be determined by the council after the review of an independent appraisal of fair market value.
- B. Property owners adjacent to the property to be auctioned shall be notified of the sale by certified mail.
- C. Notice of the auction shall be published once a week for two consecutive weeks in a newspaper of general circulation in Petersburg. If there is no such newspaper, the notice shall be posted within the same time at three public places within the city.
- D. At the completion of the auction, the high bidder shall pay to the city an earnest money deposit equal to five percent of the bid together with any costs of survey, appraisal, advertising and other expenses incidental to the conveyance.
- E. All lands not sold at public auction, shall be sold on a first-come, first-served basis using the application procedures described in Section 16.12.020. (Ord. 477 §3 (part) , 1982).

16.12.080 Earnest money deposit. Five percent of the purchase price shall be deposited with the city for each lot or parcel of land within two working days after the approval of an application by the city council. Said earnest money deposit shall be applied toward the purchase price and the balance of the purchase price shall be due and payable within one hundred and eighty days. If the applicant fails to make the payment in full at the end of one hundred and eighty days, the earnest money deposit shall be forfeited to the city unless an extension is authorized by a formal motion and approval by the council. (Ord. 477 §3 (part) , 1982).

290-2

(Petersburg 4/82)

MEMORANDUM

To: Mayor & Members of the City council

From: Richard Underkofler, City Manger

Date: February 26, 1982

Subject: Classification of City Property as Available for Sale or Lease

ACTION REQUESTED:

- 1) A motion to classify the lots designated on an attachment as "Available for Sale".
- 2) A motion to solicit proposals for an independent appraisal of the lots to be offered for sale.

Attached is a list of available city lots and a draft Request for Proposals for an independent appraisal reports, we would offer the property for sale at public auction.

Attachment

BLOCK	LOT	ACREAGE	PER ACRE VALUE	APPRAIED VALUE	MINIMUM BID
02	6	7.085	\$2,575.86	\$18,250.00	\$15,512.50
02	7	9.631	\$2,102.59	\$20,250.00	\$17,212.50
02	8	8.038	\$2,270.47	\$18,250.00	\$15,512.20
02	9	7.302	\$2,636.26	\$19,250.00	\$16,362.50
02	10	6.405	\$2,966.43	\$19,000.00	\$16,150.00
02	11	6.635	\$3,014.32	\$20,000.00	\$17,000.00
03	1	6.617	\$2,720.27	\$18,000.00	\$15,300.00
03	2	5.575	\$3,004.48	\$16,750.00	\$14,237.50
03	3	6.257	\$3,196.42	\$20,000.00	\$17,000.00
03	4	6.933	\$2,884.75	\$20,000.00	\$17,000.00
03	5	8.371	\$2,448.93	\$20,500.00	\$17,425.00
03	6	7.373	\$2,610.88	\$19,250.00	\$16,362.00
03	7	8.400	\$2,321.43	\$19,500.00	\$16,575.00
03	8	6.004	\$2,998.00	\$18,000.00	\$15,300.00
03	9	6.095	\$2,789.17	\$17,000.00	\$14,450.00

ORDINANCE NO. 505

A SPECIAL ORDINANCE TO AUTHORIZE THE SALE OF VARIOUS LOTS
OFFERED AT PUBLIC AUCTION.

WHEREAS, the City Council has classified the property which is the subject of this Ordinance as available for sale; and,

WHEREAS, an independent appraisal has determined the fair market value of the parcels as of the 7th day of December, 1982 in the manner following:

<u>Legal Description</u>	<u>Appraised Value</u>
Lot 2A Blk 224	\$18,500
Lot 4A Blk 224	\$19,000
Lot 3A Blk 221	\$29,000
Lot 8 Blk A	\$21,500

WHEREAS, the City Council has established the appraised value as the minimum amount the City would accept for sale of the property; and,

WHEREAS, an auction was held and an earnest money deposit has been received for the purchase of the property described above.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Petersburg, Alaska as follows:

Section 1. Classification. This Ordinance is of a temporary and impermanent nature and shall therefore not be codified in the Municipal Code of the City of Petersburg, Alaska

Section 2. Purpose. The purpose of this Ordinance is to authorize the sale of lots offered at public auction on the 26th day of January, 1983.

Section 3. Substantive Provisions.

A. It is hereby determined that the property which is the subject of this Ordinance is NOT required for municipal purposes.

B. The City Council hereby authorizes the sale of the following described property to the person and/or authorized agents indicated in this section:

<u>Legal Description</u>	<u>Successful Bidder</u>	<u>Purchase Price</u>
Lot 2A Blk 224	The Mill, Inc	\$19,000
Lot 4A Blk 224	Joe Herrera	\$19,500
Lot 3A Blk 221	Jim Welch	\$29,100
Lot 8 Blk A	Peter Litsheim	\$21,600

C. The earnest money deposits received shall be applied toward the purchase price and the balance of the purchase price shall be due and payable within one hundred and eight (180) days from the date of passage of this Ordinance.

D. Construction of improvements within four (4) years of the date of this Ordinance shall be required as a condition to the conveyance as described in Section 16.12.090 of the Petersburg Municipal; Code.

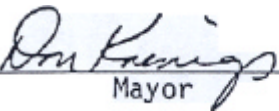
E. Excluded from the purchase price of Lot 3A of Block 221 is the extension of "O" (Odin) Street and the extension of water service to that parcel. The owner of said parcel shall be liable for an assessment if said improvements are constructed by the City; or the owner may contract with a private contractor for the construction of said improvements according to City of Petersburg's Standard Specifications for Construction.

F. The Mayor and city Clerk are hereby authorized to execute deeds and other documents required to complete these purchase transactions upon execution and compliance will all terms and conditions of this Ordinance.

Section 4. Severability. If any provision of this Ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application to other person or circumstance shall not be affected thereby.

Section 5. Effective Date. This Ordinance shall become effective three days after passage excluding the day of enactment.

PASSED and APPROVED by the City Council of the City of Petersburg, ..
Alaska this 7th day of March 1983.



Mayor

Attest:

Patricia L. Curtis

City Clerk

X. ADDITIONAL REFERENCE

The following are the titles of additional reference that should be helpful when further researching the topics presented in this notebook.

Timothy E. Troll, Attorney at Law. "Municipal Land Acquisition and Disposal in Alaska", report produced through a Community Legal Assistance Grant from the Department of Community & Economic Development to the City of Larsen Bay, 1984. (A copy of this information is included in the supplement notebook titled "Selected Legal Opinions and Information".)

James N. Reeves, Attorney at law. Ordinances and supporting documents produced through a Community Legal Assistance Grant from the Department of Community & Economic Development to the City of Larsen Bay, 1984. . (A copy of this information is included in the supplement notebook titled "Selected Legal Opinions and Information".)

Division of Community & Business Development, Department of Community & Economic Development. Alaska Local Government Handbook, 3rd Edition: Chapter 4, Section 3 (Municipal Land Acquisition and Disposals), and Chapter 6 Section 3 (Ordinances and the City Code), 1987.